

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES C. SHERROD,
Plaintiff

vs.

BOOKER T. WASHINGTON
CENTER,
Defendant

:
:
:
Civil Action No. C.A. 04-208 ERIE
:
:
Magistrate Judge Susan Paradise
Baxter

Deposition of JAMES C. SHERROD, taken before and by
Heather E. Nass, Notary Public in and for the Commonwealth
of Pennsylvania, on Wednesday, January 25th, 2006,
commencing at 1:30 p.m., at the law offices of Quinn Buseck
Leemhuis Toohey & Kroto, Inc., 2222 West Grandview
Boulevard, Erie, Pennsylvania 16506.

For the Plaintiff:

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Reported by Heather E. Nass
Ferguson & Holdnack Court Reporting, Inc.

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1 JAMES SHERROD, first having been duly
2 sworn, testified as follows:

3
4 DIRECT EXAMINATION

5 BY MR. MARTINUCCI:

6
7 Q. Now, before we get started with the questioning,
8 we're here today to address, primarily, liability issues.
9 Again, out of consideration for scheduling this deposition
10 and not knowing, at least on my end, how good or bad your
11 back was going to be, we wanted to keep this deposition
12 fairly short, so we're focusing on liability issues today.
13 I expect that after this deposition and before the court
14 deadlines expire we will be filing a motion for summary
15 judgment. If the case survives and we go to trial, I'm
16 reserving the right to call you back for an additional,
17 again, not long, but an additional deposition to discuss
18 damage issues. So I'm not going to be asking you about
19 money or things like that, okay?

20 A. Okay.

21 Q. Now. You've heard your attorney give instructions
22 at the beginning of the depositions and ask some general
23 questions and I'm going to do, basically, the same thing,
24 okay?

25 A. Okay.

1 Q. If you don't understand a question that I ask,
2 please, let me know. If you don't hear it, if I talk too
3 fast, which does happen sometimes. If I talk too soft,
4 which never happens. But if there's something about the
5 question that you don't understand or that you didn't hear,
6 let me know and I will do my best to repeat the question or
7 to rephrase it in a fashion so that you can answer it, okay.

8 If you answer a question it will be my
9 understanding that you heard the question, that you
10 understood the question, and that you gave the answer that
11 you intended to give; is that fair?

12 A. Yes.

13 Q. The answer to these next questions probably would
14 have been different if we had done this back in September or
15 October. And, again, I don't want you to feel taken back or
16 insulted by these questions, they're fairly standard. Your
17 attorney asked them of Mr. Coleman and, I believe,
18 Mr. Jeffress as well. Are you, today, aware of any reason
19 why you cannot answer truthfully and completely questions
20 that are put to you?

21 A. No.

22 Q. Are you on any prescription medication?

23 A. No.

24 Q. Are you on any nonprescription medication?

25 A. No.

1 Q. Are you under the influence of any drug or
2 alcohol?

3 A. No.

4 Q. For the record, can you please state your name.

5 A. James Curtis Sherrod.

6 Q. And where do you reside?

7 A. 917 East 33rd Street, Erie, Pennsylvania 16504.

8 Q. How long have you resided there?

9 A. About 10 years.

10 Q. Are you married?

11 A. Yes.

12 Q. How many times?

13 A. Once.

14 Q. Good for you, me too. How many children, any?

15 A. I have two biological children and two
16 stepchildren.

17 Q. And they reside with you at 917 East 33rd.

18 A. My youngest does, he's nine years old.

19 Q. Mr. Sherrod, what was the last day you actually
20 performed any duties for the Booker T. Washington Center?

21 A. That would have been August 7th, 2002.

22 Q. And have you been paid by the Booker T. Washington
23 Center for your time up through that date?

24 A. Yes.

25 Q. It's your position, in this lawsuit, that at no

1 time did you ever indicate a willingness or desire to resign
2 from your position as executive director.

3 A. Yes.

4 Q. Were you told to not return to work after August
5 7th of 2002?

6 A. I was told to hand over my keys to the committee
7 chairperson of the management committee.

8 Q. Who was that?

9 A. And then I would have to leave.

10 Q. I'm sorry.

11 A. Bill Jeffress.

12 Q. Now, you contend that you've been discriminated
13 against from the basis of your race, correct?

14 A. Yes.

15 Q. Specifically, you believe that you were terminated
16 because you were an African American.

17 A. Yes.

18 Q. Anything else?

19 A. Not at this point that I can interject, no.

20 Q. Aside from your allegation about Mr. Coleman's use
21 of the word "nigger", what evidence do you base your claim
22 of discrimination on?

23 A. Well, Mr. Coleman ordered me to fire several
24 individuals that were employed at the agency that were
25 involved in the incident that took place. Along with that,

1 the person that was in charge of approving the field trip
2 that took place. There was no disciplinary action taken on
3 that -- on his behalf.

4 Q. Okay. Is that it?

5 A. Yes.

6 Q. Aside from those two things, do you have any
7 evidence to support your claim?

8 A. There's been affidavits submitted. You have
9 copies of those from the information that we've submitted to
10 you and to the EEOC which outlined the other issues that are
11 contained within our submission.

12 Q. And what are those other issues, to the extent
13 that you're aware of them?

14 A. I can't recall them right at this time. If you
15 would allow me to pull out those documents at a later date,
16 I could give you copies of them.

17 Q. I've got the documents; you don't have to give me
18 extra copies. I was just looking for your recollection of
19 the other issues. I mean, is there something besides race
20 discrimination?

21 A. Not that I'm aware of at this point, no. I mean,
22 the main thing that we've submitted our claim to the court
23 was because of the racial issues.

24 Q. It's your contention that the board of the Booker
25 T. Washington Center voted to terminate you because of your

1 race.

2 A. Yes.

3 Q. Specifically, which board members voted to
4 terminate you on the basis of your race?

5 A. I wasn't present at the meeting that took place
6 that authorized or suggested the termination.

7 Q. Aside from what you've indicated above with regard
8 to Mr. Coleman's supposed statement and the fact that
9 Mr. Bessetti was not disciplined, what evidence do you base
10 that contention on?

11 A. Contention of what?

12 Q. That these board members voted to terminate you
13 because you were African American.

14 A. I received a letter in the mail outlining the
15 termination somewhere around September 26th, 27th of 2002,
16 saying I was terminated.

17 Q. And did it say you were terminated because you
18 were African American?

19 A. It didn't state that in the letter, no.

20 Q. Has anybody else ever stated that to you?

21 A. No.

22 Q. You don't have any written documents or anything
23 like that that would suggest that that was the situation.

24 A. I don't have any written documents in my
25 possession that would suggest that I was terminated because

1 of my race. But in looking back on the situation at hand
2 and how it occurred in relation to all that were involved,
3 that would be one of the issues.

4 Q. Okay. If you would, describe for me your
5 relationship with the board of the Booker T. Washington
6 Center prior to August 6th of 2002.

7 A. We had a good relationship, nothing that was
8 anything of a major difference.

9 Q. If there were no major differences, were there
10 minor ones?

11 A. Well, when you're dealing with 17 individuals or
12 more on a board of directors, you're always going to have
13 different people stating different things to you and
14 recommending that you do something that, you know, the whole
15 board should have spoke about. But relationships are
16 relationships, no two relationships are the same.

17 Q. Was there anybody in particular on the board that
18 you felt you had more of a contentious relationship than
19 not?

20 A. If I had to sit here and pick one person or two
21 people, I couldn't pinpoint exactly at this time who those
22 two individuals would be. But there were some negative
23 relationships with maybe two or three board members.

24 Q. Do you recall what those negative relationships
25 involved, what were they over?

1 A. Well, most of them --

2 MS. BENSON: Excuse me, what time period are we
3 talking about? He was there from -- as the
4 executive director, I believe he started in
5 November of '98. So what period of time are we
6 talking about here?

7 MR. MARTINUCCI: We're talking about any time
8 before August of 2002.

9 MS. BENSON: So you want him to go and deal with
10 from November of '98 to August of 2002. That's
11 rather broad, isn't it?

12 MR. MARTINUCCI: Sure it is. Go ahead and answer
13 the question.

14 MS. BENSON: Well, let me just --

15 MR. MARTINUCCI: Are you objecting to the
16 question?

17 MS. BENSON: I am.

18 MR. MARTINUCCI: On what basis?

19 MS. BENSON: Well, I think it's rather board.

20 MR. MARTINUCCI: It's allowed to be a board
21 question, it's my deposition.

22 MS. BENSON: I understand that it's your
23 deposition.

24 MR. MARTINUCCI: Oaky, then he can answer the
25 question.

1 MS. BENSON: Let me just state my objection for
2 the record. I think it's rather broad. Our
3 complaint deals with the incident that occurred on
4 August the 6th, 2002, and what happened with
5 regard to that incident with respect to how the
6 board treated Mr. Sherrod. We are not here to
7 deal with the nature of his relationship with
8 individual board members.

9 MR. MARTINUCCI: Your objection is noted. Can you
10 answer the question.

11 A. The Booker T. Washington Center, you know, was
12 founded some 80 years ago. Several board members have come
13 and gone through the agency.

14 Q. I would hope several.

15 A. And over that time period, I'm sure there has been
16 many executive directors who have had less than perfect
17 relationships with their board of directors. As you know,
18 when I was hired in 1998 the Booker T. Washington Center was
19 going through a time period where, I guess you would say,
20 they were questioning what was going on within the agency.
21 And the previous director, prior to myself, was terminated
22 and she did serve some jail time, along with her other
23 staff.

24 And during that time period, the board sort of
25 took over the operation of the agency and looked into hiring

1 the next executive director. And there was a lot of
2 disagreements on what direction both sides, and I say both
3 sides of the board, wanted to take the agency during that
4 time period. When I was hired, there was some trifling
5 interbattles going on with board members that I had to go
6 into. And --

7 Q. Let me stop you there just very briefly.
8 Infighting as between board members?

9 A. Between board members.

10 Q. Not between you and board members.

11 A. Correct.

12 Q. You can continue, thank you.

13 A. Having come into a situation like that,
14 expectations were that I would do what the board president,
15 the vicechair or any of the officers asked me to do. In
16 doing so, following the orders of the vice president, that
17 created opposition on the other line.

18 See, you look back at the board of directors at
19 that time. There was, I believe, 13 or 15 members prior to
20 one resigning. And once that one board member resigned,
21 there was equal lines for battle to occur, basically, which
22 divided the board. There were the African American members
23 and the Caucasian members that battled. And that was a
24 trying time for me, because I was put in the middle of that
25 battle that was going back and forth in between the two

1 sides on the board. And sticking with the majority of
2 members that were officers that were Caucasian, it caused
3 problems for me, I guess.

4 Q. Okay.

5 A. So, I can't recall what members it was, but I know
6 that there was some conflict there and I was drawn to the
7 president at the time, I think it was William Sessler, to do
8 as he told me to do. Because he was the board chairman and
9 he was authorized to, you know, basically tell me what to
10 do. So that was, as you said, any battles, or that was the
11 first incident that occurred with me having to choose a
12 side, basically.

13 Q. Now, let me stop you there and bring you up a
14 little bit further. Let's go back to August of 2002, okay?

15 A. Okay.

16 Q. At that point in time, August of 2002, in terms of
17 ethnic or racial composition, what was the split on the
18 board; was it majority African American or majority
19 Caucasian?

20 A. I think the majority on the board at that time was
21 African American, if I'm not mistaken.

22 Q. Do you recall how many -- I'm sorry for not
23 letting you finish there. Do you recall how many Caucasian
24 members there might have been on the board?

25 A. I don't know specifically, but I'm sure they have

1 some records back at the agency that would outline the
2 number of members that were each --

3 Q. And I think that actually we've exchanged that
4 during the course of the litigation.

5 A. Because I know for funding sources we have to turn
6 that information in.

7 Q. Do you feel that from these early battles from
8 1998, '99, 2000, 2001, coming up to 2002; do you think that
9 there were any board members that were in place that were on
10 the board in August of 2002 that may have harbored some
11 resentment against you?

12 A. From?

13 Q. From anything --

14 A. From when I was hired?

15 Q. From anything, from the time you were hired up
16 until August of 2002, were there people on the board that
17 you would consider to be detractors?

18 A. Yes.

19 Q. Do you recall who those people were?

20 A. Well, let me see. One of those persons would have
21 been Charles Faulkerson.

22 Q. And when you give me peoples' names, to the extent
23 that you can recall, would you give me their race too?

24 A. He's African American. The only other person
25 would have been Mr. Coleman.

1 Q. And he's also African American.

2 A. Yes, he's African American.

3 Q. I know we all know that, but I want to make sure
4 it's on the record.

5 A. The last individual, I guess, if I had to pick
6 those that I felt were questionable relationships with was
7 Paul Gambill, he's also African American.

8 Q. Those three individuals, can you trace any
9 animosity that they may have had for you back to any one
10 thing?

11 A. Yes. It all goes back to board members having the
12 authority to tell you what to do and what not to do.

13 Charles Faulkerson was the type of person that wanted things
14 done his way, as he told you to do them. You know, within
15 the agency, outside the agency, anything to do with the
16 agency. He wanted to, I'll say, oversee what was going on
17 and implement his ideas through me, you know. And when I
18 objected to some of the things that he was asking me to do
19 our relationship struggled, you know.

20 I looked at Charles Faulkerson as a person that
21 was going to create the policies, give me direction, make
22 suggestions to the full committee, and that committee come
23 back to me and tell me, okay, this is what we want you to
24 do. Not to come in and tell me how to run the agency on a
25 day-to-day basis. Not to come in my office Monday through

1 Friday and sit for four to five hours telling me what his
2 plans are, all right.

3 With Sean Coleman and Paul Gambill, I guess, it
4 was just resentment that they weren't the executive
5 director. And they felt they could possibly do a better
6 job, I don't know what the modus operandi was, but the
7 relationship struggled. Sean Coleman, basically, thought
8 that he was a better person than I was, you know, for
9 whatever reasons, you know. Paul Gambill, he just didn't
10 care for some of the moves that I made as far as staffing.
11 He questioned a lot of any staffing movements.

12 Q. So they were used to, maybe from this transition
13 from -- for a couple of these guys, because I don't know --
14 Sean Coleman was on the board when you were hired, right?

15 A. No, he wasn't.

16 Q. Do you think that maybe there was a culture that
17 developed of the board micromanaging the operation of the
18 Center?

19 A. I would say that, you know, the micromanagement of
20 the agency started the day that I was hired, you know, which
21 I didn't expect.

22 Q. Okay.

23 A. And when the board members sort of said, okay, if
24 you resign I'm going to resign. So a large majority of the
25 Caucasian members and the African American members that were

1 on the board from '98 to, I believe, 2000 to 2001 actually
2 stepped down because of the inside battles that were
3 occurring.

4 Q. Okay.

5 A. Looking back on that situation, I don't know. I
6 mean, there could be things that are carried over to this
7 time period, you know. Because, usually, when a board
8 member comes on another board member recommends that
9 individual.

10 Q. Uh-huh.

11 A. And that board member, I would imagine, would
12 update him on where the agency has come. But I know that in
13 our orientation that we completed, we also gave them a
14 historical background on the agency and where we have been,
15 under my direction, and where we are at the current time.
16 Including all of the battles that have occurred and all of
17 the problems that have occurred and the issues that we have
18 addressed and issues that we needed to address down the
19 line.

20 Q. Okay.

21 A. So it's quite possible.

22 Q. You said that you looked to the board president to
23 set policy.

24 A. The board as a whole, the board as a whole. But
25 the person that was in my office all of the time was the

1 board president.

2 Q. What types of policies were you looking for the
3 board to set?

4 A. You know, as the board of directors, you know,
5 they are supposed to outline and have the director fit into
6 the plan for the agency. And the director that developed
7 that plan, based on what their recommendations are to him or
8 her, you know. Just direction mainly.

9 Q. They're responsible for, hopefully, a vision for
10 the agency.

11 A. I wouldn't say wholly responsible for the vision
12 for the agency, but as far as the corporate incorporation
13 values of the agency goes, they're responsible for making
14 sure that those are addressed.

15 Q. They're not responsible for policies on parking
16 and sick days and personnel matters.

17 A. Well, any policy that is created has to be, I
18 would imagine, be approved by the board of directors before
19 it's enacted. And the board of directors would make a
20 recommendation; we need to look at having a policy for, say
21 for instance, an evacuation plan, you know.

22 Q. Would that be something that you would expect the
23 board to come to you with or that you would recommend to the
24 board?

25 A. I think, in some instances, we would work

1 hand-in-hand, but, you know, the agency has been around for
2 80 years. And a lot of those policies, practices, and
3 procedures have already been in place, you know.

4 Q. Okay.

5 A. Normally, the board would come say; we need to
6 take a look at changing this or instituting something
7 that -- like Charles Faulkerson and a couple of board
8 members came to me and said, well, we want you to put
9 together an evacuation plan because of all of these mail
10 bombs that were happening.

11 Q. Okay.

12 A. So I took that instruction, that direction, and
13 put together an evacuation plan. Submitted it to them for
14 review, revised it, submitted it back to them for them to
15 approve it. That's how it normally occurred.

16 Q. Okay. Now, in terms of your employment
17 relationship with the board, you understood when you signed
18 your employment contract that you served at the pleasure of
19 the board?

20 A. I was hired by the board of directors in November
21 1998.

22 Q. The specific date is not significant today.

23 A. And they gave me an engagement letter that
24 outlined what they had me under agreement for.

25 Q. And before we finish up here, I may ask you to

1 look at that and authenticate it, just as a matter of
2 record. I don't have any specific questions for you about
3 the document itself. Prior to -- I want to skip up to the
4 time of August 6th, 2002 and forward at this point, okay?

5 A. Okay.

6 Q. I may have some more historical questions for you
7 later, but right now I would like you to shift your focus to
8 the more recent time period.

9 A. Okay.

10 Q. And specifically, at this time I want you to focus
11 on the meeting that you had with Sean Coleman where you
12 allege that he said, "fire all of those niggers."

13 A. Okay.

14 Q. And I feel -- I don't want to say I feel silly
15 doing this, but I do want to make this clear for the record.
16 It's awkward for me to use that word in this room, okay.

17 A. I understand.

18 Q. And I apologize to all of you for --

19 A. It's okay.

20 Q. It's part of the lawsuit; I don't have much of a
21 choice, okay?

22 A. Right, and I understand that you're using it to
23 gain information for this.

24 Q. Exactly. Now, when he said that to you, those
25 were specifically the words that he said, "fire all of those

1 niggers."

2 A. To that effect, yes.

3 Q. What did you do at that point in time?

4 A. Well, the first time that Mr. Coleman used those
5 words was over the telephone to me. He contacted me at my
6 home and basically said, "what the fuck are those niggers
7 doing." I'm like, what are you talking about. "Those
8 fucking niggers took a kid on the field trip and she was
9 lost." And I told him to the effect, I don't know what is
10 going on. So that was the first time that he used the word.

11 Q. Uh-huh.

12 A. The word was also used at a meeting with him and
13 I, prior to interviewing the individuals that were involved
14 supervising the field trip that the children had went on,
15 before that interview process occurred.

16 Q. Right.

17 A. And, also, after the interview process was
18 conducted.

19 Q. So you're saying that there were three times,
20 three conversations that he used the term.

21 A. That I can recall at this point, yes.

22 Q. Now, at that point, at any of those points, what
23 did you do?

24 A. I looked at him in disbelief when I was in person
25 with him. On the phone I was like, what, you know. I was

1 sort of taken back because this is the board acting
2 chairman, per se, using this type of language to me. We
3 didn't talk like that, you know. I didn't talk like that,
4 you know, period. If I'm having a conversation with, you
5 know, business, I don't talk like that. And in my regular
6 life, I don't talk like that, you know. And I was taken
7 back because of the way that he threw the word out.

8 Q. Did you tell him that you were taken back?

9 A. No, I didn't tell him.

10 Q. Did you ask him what he meant?

11 A. No, I didn't ask him what he meant. He told me
12 specifically, you know, after he said -- and when I said,
13 what are you talking about. And he said, your staff that
14 took the field trip or whatever.

15 Q. Okay.

16 A. And I assumed he was talking about the same before
17 the interviews.

18 Q. Okay. Did you report it to anyone?

19 A. Who am I going to report it to?

20 Q. You had all the remaining members on the board of
21 directors, correct?

22 A. First of all, I was on vacation at the time I
23 received this call. And like I said, I was taken back
24 because of that. My main goal at that point was to try to
25 get an understanding of what was going on. Either that

1 night, or the prior day when I went in to meet with my
2 staff, you know. No, I didn't contact the board president,
3 the on-record board president, because no one could get
4 ahold of him anyway.

5 Q. What about any other members of the board?

6 A. Paul Gambill and Mr. Coleman were in communicate
7 with each other. It wouldn't have mattered what I said to
8 Mr. Gambill at that time either. And I don't keep my board
9 members phone numbers and addresses handy at 11:00 at night.
10 I wasn't going to call anyone at 11:00 at night like
11 Mr. Coleman called me and said, "fire all of those fucking
12 niggers."

13 Q. Did you call anyone on August 7th to tell them
14 that?

15 A. No, because on August 7th when I went in, the goal
16 was to interview the individuals involved in the field trip
17 process.

18 Q. When was the first time that you told anybody that
19 Mr. Coleman had used that language with you?

20 A. I guess it would have been at the board meeting
21 that we had on August 12th. That's the first time that I
22 saw the board members together, and the first time that I
23 was back from vacation and had the chance to speak with the
24 board members.

25 Q. And you told the board members as a group at that

1 time.

2 A. In the conversation of the recall of the story, I
3 used the exact, you know, words that he used in describing
4 it to them what had occurred. Because they wanted to know
5 from the beginning to the end what had occurred.

6 Q. Okay. Now, ultimately, you terminated the three
7 African American individuals who were involved in this field
8 trip, right?

9 A. Mr. Coleman told me, again, to do so, to "fire all
10 of those niggers." And, you know, he told me to put
11 together a letter and let them know. So, I called him on
12 the phone and I read the letter to him and he said, okay, go
13 ahead.

14 Q. Okay. Now, did that go -- did those terminations
15 go to the board for a vote before the letter was sent out?

16 A. No.

17 Q. You were just going on Mr. Coleman's directions.

18 A. He was acting as the person in charge, acting in
19 the capacity of the president, so.

20 Q. Did you feel that you were terminating these
21 individuals because of their race?

22 A. Did I feel?

23 Q. Yes.

24 A. In the way he spoke to them, yes.

25 Q. What about you? I mean, you're the person that

1 signed the letter, right?

2 A. Yes, I'm the person that signed the letter.

3 Q. Okay.

4 A. I wasn't terminating them because of their race.

5 Q. Why were you terminating them?

6 A. I terminated those employees because Mr. Coleman
7 directed me to do so.

8 Q. Did you feel that they should be terminated?

9 A. Well, at the time, I wanted to continue conducting
10 an investigation to get to the bottom of how things had got
11 to the point where they were. I, myself, didn't have enough
12 information. And I had told Mr. Coleman, this is all we
13 have. I don't know if the girl left the movie theater with
14 her cousins from the mall, if she, as they say, walked from
15 the Millcreek Mall 6 all the way down to 20 whatever street,
16 22nd and German or something. Or if -- there was something
17 going around saying that some lady at the Dairy Queen had
18 seen her.

19 I wanted to conduct a more thorough investigation
20 prior to making any decision, you know. But Mr. Coleman,
21 you know, he just didn't want that to happen, I guess. He
22 said he had already conducted an investigation, and you have
23 his notes from his interviews of the investigation that he
24 said he conducted. And through that, his thing to me was to
25 fire them.

1 Q. And you didn't disagree with him strongly enough
2 to bring the matter to the board for a vote.

3 A. No, I didn't.

4 Q. Okay. In all of this, what disciplinary action
5 did you recommend against Brian Bessetti?

6 A. As I said, you know, I didn't even get an
7 opportunity to recommend any disciplinary action against
8 Brian because I, myself, was told to get out. And it's kind
9 of hard to recommend disciplinary action when I'm sitting at
10 home and don't have keys to the agency.

11 Q. When were the other three individuals terminated?

12 A. If my dates are correct, I believe, it was August
13 7th or 8th, in the afternoon.

14 Q. You could have done something against Mr. Bessetti
15 at that time, correct?

16 A. No.

17 Q. No, why not?

18 A. For one, like I said, I wanted to conduct a more
19 thorough investigation. And when I told the individuals,
20 when I gave them the letter, this was bigger than me. It
21 wasn't coming from me as far as their termination. And if
22 it was up to me, they would still be there. And with Brian
23 Bessetti, I wasn't sure what had occurred with him, if he
24 was notified. I didn't get an opportunity to talk with him,
25 so I couldn't have fired him based on firing three other

1 people.

2 Q. Okay. You were never told not to discipline him
3 or not to fire him, correct?

4 A. As I said, I didn't get the opportunity to do
5 anything because when I got back from vacation I had a
6 meeting there and I was told to get out, basically.

7 Q. My question though is, nobody ever told you don't
8 do anything with regard to Brian Bessetti.

9 A. No.

10 Q. Okay. What evidence do you have that Mr. Bessetti
11 was not terminated or was not disciplined because of his
12 race?

13 A. Well, he's still at the agency, for one.

14 Q. Anything else?

15 A. Some of the documents that were submitted outline
16 that there was some discussion about discipline, but nothing
17 really occurred. And that was after the fact, I guess, this
18 whole process started. I don't have anything in my
19 possession, but there are documents that I have read that
20 outline that.

21 Q. To your recollection, I mean, we've all got the
22 same documents here. To your recollection, none of those
23 documents indicate that there was any consideration of
24 Mr. Bessetti's race, is there?

25 A. Not that I know of.

1 Q. Now, you said that Mr. Bessetti was in charge of
2 the agency on August 6th.

3 A. Yes, I left the office on August 3rd or 2nd or
4 whatever, to go on my vacation. And, normally, when I
5 leave, Brian is in charge of everything that happens with
6 the agency. And he's supposed to handle it as he's done in
7 the past, since he was employed by me.

8 Q. And what has that been? What happens if there's
9 an emergency, what happens if there's a situation; is he
10 supposed to handle it or is he supposed to call you?

11 A. He's supposed to handle it.

12 Q. Was there ever a point in time when you left
13 somebody besides Mr. Bessetti in charge of the agency?

14 A. Not that I'm aware of.

15 Q. And your standing orders to him were just to
16 handle things.

17 A. Basically, we meet, we have a staff meeting. I
18 outline what my time period of vacation is going to be. You
19 know, let staff know that Brian is going to be in charge and
20 if they have any issues let him know. If there's something
21 that he can't deal with directly get ahold of one of the
22 board members. At the time I was going to Canada, so it
23 would have been kind of difficult for him to get ahold of
24 me.

25 Q. Brian wasn't responsible for establishing any

1 day-to-day policies or procedures for the Center?

2 A. Policies, practices, procedures are all, as I said
3 before, you know, this agency has an 80-year history. Those
4 things are already in place, you know. There was nothing he
5 had to establish.

6 Q. And he didn't have the authority to hire or fire
7 employees, did he?

8 A. No.

9 Q. He wasn't authorized to discipline employees.

10 A. Depends on what type of discipline you're talking
11 about.

12 Q. Well, suspension.

13 A. If there was a suspension, being he wasn't -- in
14 that he was in charge, he would have to take that to the
15 president or the vice president, or just like I would have
16 to do. I mean, you just don't suspend someone or fire
17 someone without one of the officers knowing.

18 Q. Okay. Now, I'm just going to go back to some
19 comments that you made when I was asking you questions about
20 your conversation with Mr. Coleman. You say that in your
21 business life, you don't talk like that; in your personal
22 life you don't talk like that. Have you ever used the word
23 "nigger"?

24 A. In reference to rap music and educating youth on
25 why they shouldn't say that word, possibly, and what the

1 word means. I can't say that it's a thousand percent out of
2 my vocabulary, because when you educate young people on the
3 different things of life, you know, you want to give them
4 background on, you know, those issues and so you have to use
5 that word.

6 Q. Have you ever used it in a noninstructional or
7 nonhistorical sense?

8 A. No, I would say, no.

9 Q. Some kind of personal questions here, but they get
10 to a point later on. Name for me some of your favorite
11 music artists.

12 A. I guess I don't really have like favorites anymore
13 because I don't listen to music too much. I used to like
14 Prince when I was younger, probably until I graduated.
15 Right now, I like listen to Ashanti or J-Lo or something
16 like that. I like Third Eye Blind.

17 Q. You're not a rap or hip-hop fan.

18 A. Not really, because it sends a negative message.

19 Q. What about comics, do you like Jamie Foxx?

20 A. I like Jamie Foxx as an actor.

21 Q. Chris Tucker?

22 A. I don't really listen to Chris Tucker. I haven't
23 really seen any of his stuff.

24 Q. Chris Rock?

25 A. I haven't seen any of his stuff either.

1 Q. Eddie Murphy?

2 A. Eddie Murphy when I was younger. I've watched his
3 last couple of movies with the doctor stuff.

4 Q. Those were kind of painful, weren't they?

5 A. Yes.

6 Q. What about television shows? Are you familiar
7 with the new show out there based on a comic strip called
8 Boondocks?

9 A. No.

10 Q. Favorite authors or poets?

11 A. Don't really have a favorite, I used to like
12 Danielle Steel.

13 Q. Whatever your personal tastes and preferences are,
14 would you agree with me that as offensive as the word
15 "nigger" is, it is still a fixture in popular culture?

16 A. I mean, the rappers, they have that gangster music
17 and the kids -- the hip-hop stuff. It's to sell clothes,
18 sell sneakers, sell hats, jewelery, the whole bit, to sell
19 albums, it's all a persona.

20 Q. And people like Dave Chappelle, do you know who
21 Dave Chappelle is?

22 A. No, who is he?

23 Q. He's a comedian. Now, you said you don't listen
24 to Jamie Foxx, but even Eddie Murphy back in the day as it
25 were. Back when you and I were just out of high school and

1 in college. He used the word "nigger" in some of his
2 routines, didn't he?

3 A. I watched Eddie Murphy as an actor in like,
4 Trading Places and stuff like that. I really didn't get in
5 to watching the stand-up comics a lot.

6 Q. Okay. You are familiar though -- I mean, if
7 you're educating kids too.

8 A. Yes, I'm familiar with the type of dialogue that
9 they put out there to their audiences.

10 Q. Would you say -- and I don't mean to imply this as
11 for you, okay. But would you say that as a general matter
12 with the kids that you're dealing with, and even some of the
13 adults that you're dealing with, that there's a perception
14 that the use of the word "nigger" is different if it's
15 between two African Americans as opposed to an African
16 American and somebody of a different racial background?

17 A. I don't know. I mean, there's a thin line there
18 and you can't tread on that line.

19 Q. But people today could use the word for
20 describing --

21 A. People today can, I don't.

22 Q. I understand you don't; I understand you don't.
23 I'm asking, and again, I'm not suggesting that any of this
24 reflects you, James Sherrod.

25 A. Okay.

1 MS. BENSON: I think he's answered the question.
2 You've gone through this line of questioning and
3 he's pretty much indicated that he's taught on the
4 use of that word and its negative impact and why
5 it shouldn't be used. And I think he's also
6 answered the question insofar as what he thinks
7 about popular culture.

8 Q. What context have you seen the word being used in?

9 A. Rap music, videos.

10 Q. Casual conversation.

11 A. Among youth, possibly, you know, mostly that.

12 Q. By youth, how old was Sean Coleman; do you know?

13 A. How old is Sean?

14 Q. Yes.

15 A. I don't know. He went to school after me, so he's
16 probably like 36, 32, I don't know, somewhere around there.
17 He was a few years after me at Prep.

18 Q. Did you ever spend any time with him socially?

19 A. No.

20 Q. Do you know what any of his tastes are, in terms
21 of music, comics, literature, or anything like that?

22 A. No, I didn't know Sean on a personal level.

23 Q. Okay. Talking about policies and what existed at
24 the agency and what did not. Was there a policy in place, a
25 written policy in place for field trips?

1 A. Well, if you're looking for a written document
2 you'd have to go search the archives. But most of the staff
3 that was under my direction and, you know, as I said, I'm
4 not the first executive director of the agency. I came at a
5 time where there was a lot of stuff going on and, you know,
6 I took my direction from the board. And I sort of tried to,
7 you come in and keep going with what was there.

8 Q. Okay.

9 A. And as I've said earlier, if the board didn't ask
10 me to change anything, I didn't change anything. If they
11 came to me and said we want you to create this, then I would
12 put it together and submit it to them. There's an 80-year
13 history, this isn't the first time that policies and
14 practices and procedures have been in place for field trips
15 or anything of that nature.

16 I did, however, meet with my staff on a regular
17 basis to discuss and inform them how I wanted them to
18 conduct the activities. And part of that procedure included
19 for any child to come into the program, there had to be a
20 registration form. I didn't put a policy in place to say,
21 this is what the registration form is going to look like,
22 this is how it's going to be filled out, and this is when
23 we're going to have it back in place. Those things were
24 already in place.

25 Q. Okay.

1 A. But staff knew that any child coming into the
2 program had to have an enrollment form signed by the
3 parents, which included like four or five documents and
4 things of that nature. Staff knew that whenever they were
5 going on a field trip they had to have a sign-in sheet for
6 each activity. And they had to make sure that the kids
7 going on were the kids coming back, you know. And that was
8 how things operated, basically.

9 We've taken over -- since I was employed in
10 November of 1998, up until August 2002, there's probably
11 been over two, 300 field trips taken in town and out of
12 town, as far as D.C. and Virginia. So staff was well aware
13 of what the policy and practices and procedures were as far
14 as what was dictated them to do to ensure the safety of the
15 children.

16 Q. But you weren't there personally to do the head
17 count when they go on the bus or when they got on the bus.

18 A. I was on vacation.

19 Q. No, I'm talking any time.

20 A. I did spot checks here and there.

21 Q. But it wasn't in an every field trip thing whether
22 it was in town or --

23 A. No, it wasn't an every day thing, no.

24 Q. And in your opinion, were those policies and your
25 instructions followed by the people who were at the field

1 trip and handling the field trip on August 6th of 2002?

2 A. From the interviews that were conducted by Sean
3 Coleman and myself, the people interviewed openly admitted
4 that they didn't follow that practice.

5 Q. Okay.

6 A. Except Derrick Johnson, he did say that he did a
7 head count for his kids and he made sure they were all there
8 when he left.

9 Q. Now, newspaper articles. One of the things that
10 has come up in this case is a question of several newspaper
11 articles that appeared in the Erie Times; you're familiar
12 with those?

13 A. Uh-huh.

14 Q. You know Kevin Flowers.

15 A. Yes, I know Kevin Flowers.

16 Q. Did you contact him to talk about your situation
17 at Booker T. Washington Center in August or September of
18 2002?

19 A. Kevin Flowers, for some reason, contacted me daily
20 from August -- I'd say August 9th, August 8th. Not daily,
21 maybe three or four times a week. But Kevin Flowers
22 contacted me on several occasions asking me what's going on
23 with the agency and me. And on several occasions, I told
24 him I didn't know, you'd have to talk to someone at the
25 agency. And after he, I guess, did an article in the paper

1 and got his information, that information came out in the
2 newspaper as of what was going on, you know. I've seen
3 Kevin, I've known Kevin since he was at McDowell High
4 School. He's been involved at the Erie Times for a number
5 of years, so I do know him.

6 Q. So you're saying that you never gave Kevin Flowers
7 an interview.

8 A. I did give Kevin Flowers an interview, yes.

9 Q. Okay.

10 A. I didn't know that was your question.

11 Q. Well, actually, it hadn't been. I was leading up
12 to it, but you kind of jumped ahead a little bit.

13 A. I sat down with Mr. Flowers on August -- or
14 September 12th maybe.

15 Q. Okay.

16 A. And he asked me some questions related to the
17 previous story that I believe he had written.

18 Q. Now, the previous story, I don't have a copy of
19 the actual newspaper article. Why don't you take a look at
20 that, this is the story of September 5th. Take a minute and
21 read through that. You didn't provide any information for
22 this article, September 5th of 2002.

23 A. No.

24 Q. And as the circled section -- I hadn't circled it
25 necessarily for your deposition, those were for my own

1 notes. But what's the indication in this article as to what
2 information Booker T. Washington Center contributed?

3 A. It says, we can offer no comment at this time on
4 our personnel policies and practices, confidential rights --
5 from this here, looking at this, it's stating that it's
6 under review and investigation. So I would say they didn't
7 give too much information.

8 Q. Do you feel that the board or the Booker T.
9 Washington Center is responsible for the publication of that
10 article?

11 MS. BENSON: Well, I think the article speaks for
12 itself. And we'll have to find out from the
13 article who in fact contacted Erie Times and gave
14 them that information, it speaks for itself. What
15 we know is Mr. Sherrod didn't, he didn't give them
16 any information, he was not contacted.

17 MR. MARTINUCCI: If you're going to pose an
18 objection, why don't you indicate so.

19 MS. BENSON: I object to the question.

20 MR. MARTINUCCI: And what's the basis of the
21 objection?

22 MS. BENSON: As I understand your questioning --
23 I'm certainly willing to accept a correction from
24 you. But as I understand, you're wondering
25 whether or not Mr. Sherrod was responsible for

1 that article.

2 MR. MARTINUCCI: Well, I asked him that question
3 and he pretty clearly answered that and then I
4 asked him another question. Let me rephrase that
5 question, maybe that will clear things up.

6 Q. Do you have any information that would suggest
7 that anyone on the board or anyone at the Booker T.
8 Washington Center was responsible for the publication of
9 that article?

10 MS. BENSON: And I object to that. Mr. Sherrod
11 can't testify as to who -- other than reading that
12 article. Obviously, somebody had to tell the news
13 media that he was not there. And so the
14 presumption is that it came from the board itself.

15 MR. MARTINUCCI: With all due respect, he could
16 have simply said I don't know and that would have
17 been an accurate answer to the question. You
18 don't have to testify for him.

19 MS. BENSON: I'm not testifying for him.

20 MR. MARTINUCCI: That's exactly what you did
21 because that was not an objection.

22 MS. BENSON: I think the -- my objection is the
23 article speaks for itself.

24 MR. MARTINUCCI: I'm not asking about anything in
25 the article. I'm asking if he knows who's

1 responsible for the publication of it.

2 Q. Do you know?

3 A. I don't know who's responsible for the
4 publication.

5 Q. Okay. That's fine, that's all I needed you to
6 say.

7 MS. BENSON: The Erie Times did, they printed it.

8 A. It says Erie Times on it.

9 Q. But you don't know who got in touch with Kevin
10 Flowers.

11 A. No.

12 Q. You, yourself, don't have any information to
13 suggest that it was a member of the board or anybody else at
14 the Booker T. Washington Center that contacted Kevin and
15 said, hey, this is a story you ought to follow.

16 A. Do I have any information that says that they
17 contacted him and said that?

18 Q. Yes.

19 A. Well, it's a press release. So I would think that
20 someone from the board contacted him, there's a general
21 statement there. That statement just wasn't, you know, off
22 the top of someone's head. I mean, it's clearly one of
23 those model statements that's utilized in situations.

24 Q. Do you think that somebody just puts that out
25 there in a vacuum?

1 A. No, I'm thinking that the board of directors had a
2 meeting, and here's the statement that we're going to
3 release when we get a phone call.

4 Q. Okay. Thank you. Now, the next article,
5 September 13th of 2002; can you take some time to look at
6 that. Are you familiar with that article?

7 A. Yes.

8 Q. The statements attributed to you in that article;
9 are they correct?

10 MS. BENSON: Which statements are you referring
11 to. There are several statements.

12 MR. MARTINUCCI: I'm referring to all of them; are
13 they correct?

14 MS. BENSON: I think that maybe we should go one
15 by one and that would be better for him in terms
16 of answering your question.

17 Q. Have you had a chance to read the article?

18 A. Yes.

19 Q. Have you reviewed the statements that are
20 attributed to you in there as quotes?

21 A. Yes, I reviewed them.

22 Q. Are those statements correct?

23 A. I wouldn't say a 100 percent.

24 Q. Which ones are not?

25 A. First statement, "I didn't do anything wrong or

1 anything related to mishandling the agency, said Sherrod.
2 Nobody on the board is claiming that I did anything wrong,
3 so they have --

4 Q. Why don't you go a little slower.

5 A. Sorry.

6 Q. And just while you're doing that, why don't you
7 make reference to the paragraph number?

8 A. Paragraph 3, second sentence, "Nobody on the board
9 is claiming that I did anything wrong, they've just said
10 they want to go in a different direction." I think that
11 whoever wrote that was paraphrasing what my statement was.

12 Q. What was your statement?

13 A. There's some more information that was related to
14 that statement there that he has in quotes. And I can't be
15 a 100 percent positive on what the detail was, but I would
16 have gone into more explanation if I was going to say
17 something like that. There's something missing, I don't
18 know what it is.

19 Q. Okay.

20 A. Second page, the fifth section on that page. It
21 says, "Sherrod said he is scheduled to meet Monday with the
22 board's executive committee and expects to discuss how to
23 resolve all of this amicably, including a severance
24 package." I don't know where that amicably came from.

25 Q. But that wasn't the word you used.

1 A. I don't think that that's a word that I would
2 normally use.

3 Q. Okay.

4 A. I guess the rest looks okay.

5 MR. MARTINUCCI: We'll mark that as Defendant's 1.

6 I think we already all have copies, but you'll get
7 another copy in the transcript.

8 (Sherrod Exhibit No. 1 marked for identification.)

9 Q. Again, in that article --

10 A. And I'm just looking at the quotes that are in
11 there. I didn't look at the detail because I can't attest
12 to any of the detail that's in there.

13 Q. I'm not looking for you to attest to anything
14 other than what you've said, okay.

15 MS. BENSON: Let me just make sure. Are you
16 saying that you're only dealing with those
17 statements attributed to you in quotation marks?

18 MR. SHERROD: Yes.

19 Q. Is there anything attributed to you that's not in
20 quotation that you believe is inaccurate? Take your time,
21 we've got plenty, we're going through this at a pretty good
22 clip right now.

23 A. There's a lot of -- when a person writes
24 something, they put their flavor into it.

25 Q. Absolutely.

1 A. And the writer here, Kevin Flowers, has put his
2 flavor in here. And I don't want his flavor to be
3 attributed to me.

4 Q. Okay.

5 A. And here on the second line, now he's talking and
6 claiming the Center's board of directors hasn't explained
7 why he's out. That's sort of a little dramatic.

8 MR. MARTINUCCI: While you're reading that. Off
9 the record.

10 (Off-record discussion held.)

11 Q. Mr. Sherrod, have you had a chance to go through
12 the article?

13 A. Yes, I did.

14 Q. Okay.

15 A. I'll bring a couple of things to your attention.
16 In relation to how this was put together or how the
17 information was gained, okay. It says the girl walked more
18 than 5 miles from Tinseltown, I don't know nothing about
19 that.

20 Q. Right.

21 A. Also on Page 2, it says that I changed my mind
22 about speaking out after a statement was released because it
23 left a lot of questions unanswered. I never was in the
24 mindset of not speaking out, I was reserving that. It
25 wasn't like, well, they're doing this, so now I'm going to

1 do this; it wasn't like that.

2 Q. Okay.

3 A. It says on here that the board refused to publicly
4 discuss why I was asked to resign. And over here it says,
5 "Coleman, asked Thursday about the meeting and said, the
6 board is working out something that is very beneficial." So
7 they never spoke out, but yet they spoke out.

8 Q. Okay.

9 A. See what I'm saying?

10 Q. I understand.

11 A. And it says on here on No. 4, "Sherrod had
12 originally agreed to resign rather than being fired because
13 a firing could make it tougher to find a job. Sherrod has
14 also said he is still waiting for a letter from the board
15 outlining why they want to make a change." Yes, I did say
16 to him I want to know why they want to make a change and why
17 I haven't received any information related to me not being
18 at the agency.

19 Q. Okay. You did indicate to him though that you had
20 resigned and they know you changed your mind.

21 A. No, I didn't indicate to him that I had resigned.
22 I said that they asked me to resign.

23 Q. It says, "Sherrod said he originally agreed to
24 resign rather than be fired, because a firing could make it
25 tougher to find another job." Did you make any statement

1 similar to that to Kevin Flowers?

2 A. I may have told Kevin that I looked at the
3 possibility of resigning instead of being fired. Because
4 when you get fired people don't want to hire you.

5 Q. Did you ever make any statement, to either the
6 board as a whole or anyone on the board of directors of the
7 Booker T. Washington Center, in August of 2002, that you
8 were resigning?

9 A. There were various meetings and informal meetings,
10 related to me resigning, with board members, many board
11 members and individual board members. And as you know, I
12 must not have resigned, I got a termination letter firing
13 me.

14 Q. That was over a month later, right?

15 A. I received the letter September 26th, 27th. Prior
16 to receiving that letter, I had been in discussion with
17 members of the board of directors on various levels about
18 retaining some involvement. They wanted me to be involved
19 in assisting them until the end of the year, but they didn't
20 want me as executive director, you know.

21 And at one point, they also said that they were
22 going to look at the executive directorship. But in the end
23 they sent that letter out, September 27th, after our
24 meeting, which they were supposed to go back to the board
25 and discuss what my attorney and I had wanted.

1 Q. Okay. Just to kind of bring the question back
2 into focus here. During any of these meetings, any of these
3 conversations with any board members, where it was a group,
4 whether as the board, whether as group of one or more, or
5 whether as individuals, did you ever tell any member of the
6 board of directors, "If they want my resignation they can
7 have it"?

8 A. It wasn't to that effect. Like I said, we had
9 various discussions. I had discussions with Sean Coleman,
10 him coming to my house, telling me I need to resign and get
11 this over with. I had telephone conversations with the full
12 board in conference. I had conversations with Mr. Jeffress,
13 Mr. Rege O'Neil, with Mr. Paul Gambill. At no time did I
14 submit my resignation. I also sent a letter out to them
15 clarifying that to them, I think the letter was dated August
16 16th, 2002, after the August 12th meeting, so that it was
17 clear to them that I did not resign.

18 Q. Why would you feel the need to submit that letter?

19 A. Because I was -- I received a telephone call from
20 an organization that we dealt with on a regular basis. And
21 they said to me, what's going on, because I hear Anita is
22 the executive director now.

23 Q. And who was that?

24 A. If I remember correctly, I think it was someone
25 from HANDS, Housing and Neighborhood Development Services.

1 Q. Do you remember who it was from HANDS, was it
2 Chuck?

3 A. I'm not positive who it was, but it was someone
4 from HANDS, because I had a good relationship with them;
5 they were a part of our development process for housing.

6 Q. At any rate, there was --

7 A. Conversation about resignation.

8 Q. Yes.

9 A. There was conversation about being fired too.
10 There were conversations about me coming back and being
11 employed as executive director; although, I hadn't left.

12 Q. Okay. Let me show you what I'll ask be marked as
13 Defendant's 2 in this. Can you go down that list and tell
14 me if you believe that's an accurate representation of the
15 membership of the board of directors for the Booker T.
16 Washington Center and its racial composition for the period
17 indicated, which I believe, January through December of
18 2002?

19 (Sherrod Exhibit No. 2 marked for identification.)

20 A. Can you restate your question again.

21 Q. Sure. After you've had a chance to review that
22 document, can you tell me, is it your understanding, your
23 recollection, that that document is an accurate reflection
24 of the composition of the board of directors of the Booker
25 T. Washington Center for the period from January 1 --

1 A. 2002?

2 Q. Yes. January 1, 2002 through December 31, 2002.

3 MS. BENSON: And let me just object. Because
4 Mr. Sherrod does not have access to the records of
5 the Booker T. Washington Center here. He would
6 purely be responding based on memory. Booker T.
7 Washington is in a better position to provide us
8 with a listing of who was on the board, at that
9 time, and whether that is a complete and full and
10 accurate list of board members.

11 MR. MARTINUCCI: It's noted.

12 A. For January 2002 to December 2002, this listing is
13 for, I can say that, from January 2002 until August 6th,
14 2002, that the members listed on here were on the roll as
15 board members, whether active or inactive.

16 Q. Okay. Very good. Do you recall who was active
17 and who was inactive?

18 A. Active based on board policies or based on
19 attendance at meetings?

20 Q. Who was inactive in terms of attendance at
21 meetings, why don't we go with that, hopefully it will be a
22 smaller number.

23 A. James Hamilton, Clifton Anderson, Joe Fries,
24 Anthony Ross. John Williams looks like an addition to this
25 list. I don't recall any John Williams.

1 Q. Okay.

2 A. Charolett Gavin.

3 Q. Those were inactive.

4 A. As from what I would call inactive.

5 Q. Just looking down the entire list. I just want to
6 confirm, James Hamilton; you knew him?

7 A. Yes.

8 Q. African American.

9 A. Yes.

10 Q. Sean Coleman, you knew him.

11 A. Yes.

12 Q. African American.

13 A. I knew those individuals as being on the board of
14 directors from January, 2002 to August, 2002, not John
15 Williams on there.

16 Q. Well, I just -- and I guess you're shortcutting my
17 questions for me, which is great. But --

18 A. I apologize.

19 Q. No, it actually will save time. I just want to be
20 clear, when you're saying that, in terms of John Williams, I
21 understand you don't know him from Adam.

22 A. Well, I know who he is, but I don't know him as
23 being a board member between January of 2002 and August of
24 2002.

25 Q. Okay. I'm not saying this in terms of like

1 socially interacting with or best friends with, but you
2 personally know all of these people.

3 MS. BENSON: Do you mean in his capacity as the
4 director of the Booker T. Washington Center?

5 MR. MARTINUCCI: I'm saying that, if he was in a
6 room he would know who this individual was.

7 A. Clifton Anderson, I couldn't pick him out from a
8 lineup.

9 Q. That's what I was looking for. Because I want to
10 be clear, Mr. Sherrod, over on the race column, to the
11 extent that you're able to tell me whether or not that's
12 accurate, you tell me that it's accurate. And I understand
13 that there might be a couple of people on there that you
14 can't.

15 A. Yes, this is accurate. I know that Clifton
16 Anderson is a male and he's black. I met him one time.

17 Q. Okay. Like you said, you couldn't pick him out of
18 a crowded room.

19 A. I know that John Williams is male and he's black
20 because I know who he is.

21 Q. But you don't recall him as being on the board of
22 directors.

23 A. No.

24 Q. That's fine. And I'm going to ask you to take a
25 look at, and if you can identify, what I'm going to show

1 you, and ask be marked as Defendant's Exhibit 3.

2 (Sherrod Exhibit No. 3 marked for identification.)

3 MS. BENSON: Do you intend to mark this as an
4 exhibit?

5 MR. MARTINUCCI: That's right. This is
6 Defendant's 2.

7 A. I think I have copy of this in my bag, can I get
8 it and make sure it's the same?

9 Q. If you want to compare that's fine, absolutely.

10 A. And your question.

11 Q. My question is, if you would, review and, if you
12 can, identify the document for me; tell me what it is.

13 A. This document is a job description that was put
14 together on 8/11/1998. It references executive director and
15 the immediate supervisor being the board of directors.

16 Q. Is that the job description that you were given?

17 A. I believe, I can't be 100 percent positive.

18 Q. You have copy of it?

19 A. This is the copy that I got out of the information
20 that was submitted to the EEOC.

21 MS. BENSON: Submitted by whom?

22 MR. SHERROD: Submitted by --

23 MR. MARTINUCCI: Booker T. Washington or by your
24 attorney?

25 MR. SHERROD: I'm not sure who it was submitted

1 by, I'm not sure.

2 MS. BENSON: The document came out of a file
3 that --

4 MR. SHERROD: It came out of the package.

5 Q. And this, I'll ask be marked as Defendant's
6 Exhibit 4, will you take a look at that. Do you recognize
7 the document?

8 (Sherrod Exhibit No. 4 marked for identification.)

9 A. Yes.

10 Q. And can you tell us what that is.

11 A. This is a letter that I received from William
12 Sesler after I met with him to discuss becoming the
13 executive director of the Booker T. Washington Center.

14 Q. You received a letter from Bill Sesler or from
15 Johnny Johnson?

16 A. From Bill Sessler.

17 Q. Was it hand delivered to you?

18 A. I believe he gave it to me at his office.

19 Q. Okay. Very good. The letter is signed by Johnny
20 Johnson, though, correct?

21 A. Yes, it is. I believe Mr. Sesler was the one that
22 was in charge of things.

23 Q. Okay. Now, we're almost done here, just a couple
24 of housekeeping questions. What documents did you review
25 before coming to today's deposition?

1 A. I reviewed my file that I received from the EEOC
2 which we submitted a copy to you, I believe.

3 Q. Exactly.

4 A. Just to refresh my memory on some dates, and stuff
5 of that nature, to know exactly what was back and forth in
6 the file.

7 Q. Okay. Anything else?

8 A. And you know I reviewed this stuff because I have
9 copies of it.

10 Q. Absolutely.

11 A. Which is the job description and engagement
12 letter.

13 Q. With regard to the deposition, the documents that
14 you reviewed, did you review any transcripts of anybody
15 else's testimony?

16 A. No, I haven't seen any transcripts.

17 Q. Other than your attorney and your wife, did you
18 talk to anybody about your preparation for testifying here
19 today?

20 A. I just reviewed documents. My wife and my son are
21 in the house, so they asked me what I'm doing.

22 Q. Like I said, I don't need to know about your
23 conversations with your family. I'm not going to drag them
24 in for a deposition.

25 A. My supervisor at worked asked me did I need a

1 whole day off, because I had asked her for a day off to do
2 my deposition. I told her that I was going to do a
3 deposition and she said I only had to take a half day
4 because I had flextime.

5 Q. But you didn't talk to her about the substance of
6 what you were going to be talking about today?

7 A. No, she didn't want to know what it was all about.

8 MR. MARTINUCCI: For today, Mr. Sherrod, granted,
9 I'll certainly follow up on anything that your
10 attorney asks. But, for today and for right now,
11 those are all of the questions that I have for
12 you. And, again, that's subject to calling you
13 back if we need to talk about damages and other
14 aspects of the case.

15 MR. SHERROD: Okay.

16 MS. BENSON: What I would like to do, Art, if it's
17 okay with you is just take a few minutes to go
18 over my notes.

19

20 CROSS-EXAMINATION

21 BY MS. BENSON:

22

23 Q. Let me go back, some of my questions deal with
24 just putting this in context. You previously testified that
25 you were on vacation when this incident occurred. Tell us

1 the time period that you were on vacation.

2 A. My last day at work was August 2nd, I believe,
3 prior to this incident. I'm saying that because I had a
4 meeting with Mr. Coleman in my office and we discussed
5 different stuff that was going on at the agency and when I
6 would be coming back. And I also asked him if I could get
7 my check early, I remember that.

8 Q. So you believe that you went on vacation around
9 August 2nd of '02.

10 A. Yes.

11 Q. And prior to going on vacation you had a meeting
12 with Mr. Coleman.

13 A. Yes.

14 Q. Now, among the things that you discussed with
15 Mr. Coleman were, you said, your check and things happening
16 in the agency.

17 A. Yes.

18 Q. Did you discuss anything else with Mr. Coleman?

19 A. I told him if he needed anything that Brian was in
20 charge and he could go to Brian and talk to Brian about it.
21 I told him that I had had a meeting with my staff and they
22 knew that I would be on vacation next week. Just the
23 general things that we normally cover. He asked me some
24 questions related to programs and other things.

25 Q. Did Mr. Coleman know the period of time you would

1 be away from the office?

2 A. Yes.

3 Q. And what period of time did he know you would be
4 away?

5 A. August 5th through August 9th, I believe, because
6 it was a week.

7 Q. And why was Brian Bessetti in charge of the
8 agency?

9 A. Brian was in charge of the agency every time I
10 left, because that's what the board had directed me to put
11 him in charge when I left the agency. Because he was the
12 finance director, he had all -- you can't put someone else
13 in charge because of that.

14 Q. So he was placed in charge at the board's
15 direction.

16 A. Yes.

17 Q. Was it for any period of time?

18 A. Whenever I was out. Even like -- if there was
19 like a phone call that, say from a funder that they needed
20 to talk to someone when I wasn't at the agency and it
21 couldn't be patch through to me somehow, Brian would take
22 it. So I would say on a regular basis.

23 Q. Was he in charge also for extended period of
24 absences?

25 A. Yes, whenever I went out of town to trainings or

1 conferences, Brian was always in charge.

2 Q. Now, I don't know if you identified Brian's race
3 or ethnic identity, but can you state that for the record.

4 A. Brian is a white male, he's like 38, 40 years old.

5 Q. Now, the alleged incident involving the little
6 girl occurred on what date?

7 A. August 6th, I believe, 2002.

8 Q. And at what point did you learn of this alleged
9 incident?

10 A. Let's see, I got back to the house at about, I
11 want to say 8:00 or 9:00.

12 Q. A.m., p.m.?

13 A. P.m., the date of the alleged incident. And
14 there was just a general message on my machine that
15 something had occurred at work, but it was all taken care of
16 and I wasn't to worry about it and they would see me after
17 my vacation.

18 Q. And do you know who left this message?

19 A. Randy Davis.

20 Q. And it was just a general message.

21 A. Yes.

22 Q. It didn't tell you what had occurred.

23 A. Not in specifics, no.

24 Q. So you said you got back to your house, were you
25 still then -- you had previously testified that you were

1 departing for Canada. When were you scheduled to depart for
2 Canada?

3 A. Well, my wife had decided that we weren't going to
4 leave the day we were supposed to leave, because she wanted
5 to do some shopping to get some stuff to wear up there
6 before we left, so that kicked us back another day. So we
7 were supposed to leave on that Monday, but we didn't leave
8 on that Monday.

9 Q. So when you received this telephone message in the
10 evening you were still here in Erie, Pennsylvania.

11 A. Yes.

12 Q. Can you remember when you had a conversation
13 with -- let me rephrase the question. Did you have a
14 conversation with any other staff person -- with any staff
15 person after 8:00 that evening?

16 A. After 8:00 that evening, the only person I spoke
17 to was Sean Coleman.

18 Q. Okay. And what time did you first speak with
19 Mr. Coleman?

20 A. I believe my first conversation with Mr. Coleman
21 occurred around 10:30, 10:45 p.m.

22 Q. And you had a second conversation with him.

23 A. Yes, he called me back like a half an hour later
24 at my home.

25 Q. Now, you've previously testified that Mr. Coleman

1 used the "N" word on three separate occasions with you.

2 A. Right.

3 Q. Going back to the first one, when was that?

4 A. That was on the telephone.

5 Q. On what day?

6 A. August 6th, the date of the alleged incident.

7 Q. And was that in the first conversation or the
8 second conversation?

9 A. It was in the first conversation. I can't recall
10 if he did use it in the second conversation, but I do have
11 some notes from our conversation that I could check and see,
12 if I can find them.

13 Q. Well, you said that he used the "N" word again on
14 a second occasion, when was that?

15 A. That was August 7th, the day that we conducted the
16 interviews at the agency.

17 Q. Was that the next day after your phone call with
18 him?

19 A. Yes, the next day.

20 Q. Now, let me ask you this question. Based on your
21 testimony, it appears that Mr. Coleman was far more active
22 in agency business than the board president; tell us why?

23 MR. MARTINUCCI: I'm going to object, because it
24 calls for speculation.

25 MS. BENSON: Okay.

1 MR. MARTINUCCI: You can go ahead and answer the
2 question, that's just on the record.

3 A. Mr. Hamilton who was the board president.

4 Q. What's Mr. Hamilton's first name?

5 A. James Hamilton, an African American male was the
6 board president, but wasn't active, I wouldn't say active as
7 president.

8 Q. When did Mr. Hamilton become board president?

9 A. I believe he became board president January, 2002.
10 He was appointed December, 2001.

11 Q. What do you mean appointed?

12 A. That's where they have the votes and everything
13 and pick officers for the year and bring on new board
14 members at the annual meeting.

15 Q. So he officially assumed his position as board
16 president January of 2002.

17 A. Yes.

18 Q. And when did Mr. Coleman become board vice
19 president?

20 A. I believe it was at the same time period, because
21 I know we had a new slate of officers. I'd have to look at
22 the board minutes or director or something to see to compare
23 it to 2001 and 2002, to be positive.

24 Q. Now, you've previously described Mr. Charles
25 Faulkerson as being in your office on a daily basis. And I

1 believe you testified that he had previously served as board
2 president.

3 A. Yes.

4 Q. When did Mr. Faulkerson serve as board president?

5 A. I believe his term of board presidency was 1999 --
6 no, 2000 was the first year and 2001 would have been his
7 second year, I believe. But, again, if I could get, if they
8 had it available, the board listings for those years.

9 Q. What's the length of term for a board officer?

10 A. One year.

11 Q. And then they can stand for reelection.

12 A. Yes.

13 Q. Now, describe for us Mr. Coleman's role in
14 carrying out his responsibilities as board vice president.

15 A. Well, according to the -- I guess, it's the
16 bylaws, whenever the board president is inactive or not
17 available, or for some reason not in attendance or has
18 been -- the vice president assumes the role of the
19 president. Mr. Coleman had assumed the role of the
20 president prior to August, 2002, so it wasn't just August,
21 2002.

22 Q. Had he assumed it almost from the beginning of
23 Mr. Hamilton's tenure as board president in January of 2002?

24 A. I can't say for positive that he assumed that role
25 prior to April. Because I know that during the latter part

1 of April, May, and June that we had meetings in which he
2 acted in that capacity.

3 Q. He, meaning Mr. Coleman.

4 A. Mr. Coleman, right.

5 Q. Now, did Mr. Coleman show up at your office on a
6 daily basis?

7 A. Yes, Mr. Coleman showed up almost on a daily basis
8 too. I mean, yes, he did.

9 Q. And why would he show up there daily?

10 A. To see what's going on. Come in and do some of
11 his work. Come in and sit in my office and tell me things
12 and ask me questions about programs and related information
13 about the agency.

14 Q. Did he also want you to perform in a certain way?

15 A. Sean wanted things the way he wanted things and he
16 wanted me to do as he suggested or told me to do, basically.
17 Like for instance, there were several occasions where he
18 called me at the office to come and pick him up and
19 transport him places. He's the board president, what am I
20 to say.

21 Q. And did you?

22 A. Yes. I had taken him to his work three or four
23 times. I had taken him a number of places.

24 Q. Now, prior to coming to the Booker T. Washington
25 Center in November of '98, were you employed?

1 A. Yes, I was employed at Bayfront Nato Martin Luther
2 King Center.

3 Q. And what was your position there?

4 A. Director of operations.

5 Q. And just very briefly, tell us what the Bayfront
6 Nato Martin Luther King Center does or is?

7 A. It's a social service, nonprofit agency that
8 provides services to low income individuals in the Erie
9 community.

10 Q. And just for the record, describe for us what the
11 Booker T. Washington Center is?

12 A. The Booker T. Washington Center is a social
13 service agency that provides social services to the low
14 income individuals, similar to the Martin Luther King Center
15 and the John F. Kennedy Center.

16 Q. Are the programs that -- when you were at the
17 Booker T. Washington Center, were the programs that were
18 there, or that you instituted, similar to those at the
19 Martin Luther King Center?

20 A. There were similar programs. Youth recreation,
21 housing, food pantry. But the Martin Luther King Center had
22 a dance program at the time and we didn't have a dance
23 program. We both had football teams.

24 Q. Now, how long have you been in the social service
25 field?

1 A. I started working in the social service field in
2 1990, so that would be 15 years, a little more than 15
3 years.

4 Q. When you went to the Booker T. Washington Center
5 you said you were given a letter of engagement. What were
6 your expectations about how long your tenure might last?

7 A. As long as I received positive ratings I would be
8 employed as executive director.

9 Q. And calling your attention specifically to August
10 of 2002. Did you have a positive rating from the Center
11 with regard to your performance?

12 A. Yes, and I also received a raise.

13 Q. And when did you receive that raise?

14 A. Shortly after the evaluation took place. I want
15 to say I got evaluated in February or March.

16 Q. Of 2002?

17 A. 2002.

18 Q. Now, when you went on vacation, specifically, I'm
19 calling you to August of 2002, had any board members told
20 you that you were going to be fired for failure to perform?
21 I'm taking you to August of 2002.

22 A. Prior to August of 2002?

23 Q. No. When you went on vacation in August -- let me
24 reword it. August 2nd, 2002, you were on vacation. In that
25 meeting with Mr. Coleman, did Mr. Coleman tell you that you

1 were going to be fired because of a failure to perform?

2 A. No.

3 Q. Mr. Coleman expected you to return back to your
4 job after your vacation.

5 A. Yes.

6 Q. Now, after you spoke with Mr. Coleman on the night
7 of August the 6th, 2002, what if anything, had you decided
8 to do with regard to the alleged incident of August the 6th?

9 A. Well, after we had our conversation, I told him I
10 was going to go in the morning and meet with those staff
11 involved to find out what exactly happened and start an
12 investigation into the matter.

13 Q. Had you planned to do anything else other than
14 meet with the staff?

15 A. I hadn't planned to do anything aside from meeting
16 with them and trying to compel some information that would
17 provide me with answers.

18 Q. Was there anyone else that you expected to talk
19 to, other than staff?

20 A. Yes, I wanted to mainly retrace what had occurred
21 that day, on August 6th, from the time they left the agency
22 to the time they got to the movie theater and back to the
23 agency. And also talk to -- there was some thought that a
24 few people had seen the girl walking down Peach Street and
25 she had stopped at several places. I had a hard time,

1 myself, believing that a kid, age 7, would walk from
2 Millcreek Mall 6 down Peach Street, all the way down to the
3 inner city, safely. I didn't believe it, so I wanted to
4 retrace those steps and speak with the people at the movie
5 theater and along that route.

6 Q. You said earlier that you wanted to make sure you
7 had done a thorough investigation. Was it your intent to
8 speak with the little girl and her mother?

9 A. Yes, it was my intent. Mr. Coleman said I didn't
10 need to because he had already spoke with them.

11 Q. And when did he tell you he had spoken with them?

12 A. When he called me back, he said -- the first time
13 he called me he said he didn't need to contact the -- he
14 asked me if I had the phone number of the people. And I'm
15 like, I don't have any phone numbers, they're at the agency,
16 I'm at home. And he said, well, I'll get the number, don't
17 do anything, I'll get the number and I'll take care of it.
18 And he called me back and he said he got in contact with
19 Paul Gambill, Charolett, not Charolett, Claudette McAdory.
20 And he was on his way over to talk to, I guess her name was
21 Valerie Hughes.

22 Q. At 11:00 at night?

23 A. Yes.

24 Q. Now, to your knowledge, is Mr. Coleman related to
25 Valerie Hughes?

1 A. It's my understanding that he is related to the
2 Hughes.

3 Q. Did he disclose that information to you on August
4 the 6th, 2002?

5 A. No.

6 Q. Now, you've testified that Mr. Coleman used the
7 "N" word at the initial conversation with you on August the
8 6th, 2002, when you showed up on August the 7th to begin
9 your investigation. Tell us the circumstances in which he
10 used the "N" word at the Booker T. Washington Center on the
11 morning of August the 7th, 2002.

12 A. It was in the same context that, you know, all
13 them F'ing niggers should be fired. And then, I guess,
14 after we conducted the interviews it was even more -- he
15 used it more strongly, to say that they all should be fired,
16 and we went back and forth.

17 Q. Now, let me ask you: Identify for us for the
18 three individuals who were adults who were supervising the
19 field trip.

20 A. Derrick Johnson, male, African American. Rene
21 Smith, female, African American and Lester Howard, male,
22 African American.

23 Q. There were no other adults supervising the field
24 trip other than those three?

25 A. There were no other adults that were employed by

1 the Booker T. Washington Center that were supervising those
2 three from the information submitted by Mr. Coleman in his
3 report.

4 Q. What report are you referring to?

5 A. He submitted a piece of paper to Mr. Martinucci
6 that had his notes on it, the interviews.

7 Q. Are you talking about the notes that he had
8 available at his deposition?

9 A. No, it was a piece of paper, I have a copy of it
10 too. Yes, I guess that might be it. And it said that he
11 had talked to Dasha Pacely (phonetic).

12 Q. And who was she?

13 A. She was the, I guess, the youth recreation summer
14 person.

15 Q. But she was not paid staff.

16 A. Not by the Booker T. Washington Center, no.

17 Q. So when Mr. Coleman -- and you said there was a
18 third occasion in which Mr. Coleman used the word.

19 A. After our interview process with the staff.

20 Q. When he gave you the instruction to fire those
21 niggers, who did you take that to mean?

22 A. Rene, Derrick, and Lester, the people that we had
23 interviewed shortly prior to that statement.

24 Q. Now, you've previously testified that Mr. Coleman
25 was aware that the controller was in charge of the agency in

1 your absence. Did he direct you to bring Brian in for an
2 interview?

3 A. No.

4 Q. Now, these interviews occurred on August the 7th,
5 2002. On what day did you give those three individuals
6 their termination letter?

7 A. I believe I gave them the termination letters the
8 same day, in the afternoon.

9 Q. I think you previously testified that you had to
10 review that letter --

11 A. August 8th, we had the interviews and Sean told me
12 he wanted all of them fired. He told me to put together a
13 letter. I called him on the phone. And after he approved
14 it, I met with them in the conference room and gave them the
15 letters.

16 Q. Would you have fired those -- excuse me, let me
17 rephrase it. Left to your own will, would you have fired
18 those individuals on that day?

19 A. No, I don't think I would have fired them on that
20 day, because I wanted more information before doing that
21 because those people involved in that field trip had a long
22 history of working within youth services. And I wanted to
23 find out why they didn't do as they were supposed to do
24 working within this here field trip.

25 Q. So your testimony is you feel you did not have

1 enough information in order to fire them. Within agency
2 policy, did you have the authority -- or let me rephrase it.
3 Within agency policy, was there the opportunity to provide a
4 warning to staff, a suspension of staff, a written reprimand
5 to staff? In other words, were there degrees of punishment
6 available to staff?

7 A. Within the personnel policies manual there's
8 different degrees that you can discipline staff at. From a
9 conversation, to suspension, to termination.

10 Q. To a written warning?

11 A. To a written warning. There's different levels,
12 there's like five levels.

13 Q. Of those three individuals, was there any
14 individuals who had not been assigned the responsibility of
15 supervising field trips?

16 A. Lester Howard was called in to assist with the
17 field trip. He wasn't assigned that day to the field trip.

18 Q. Was it his primary duty?

19 A. No.

20 MR. MARTINUCCI: Are you done with that?

21 MS. BENSON: Yes, I am. I just wanted to touch on
22 that.

23 MR. MARTINUCCI: I was wondering if you were
24 picking up Lester's representation now that Jeff
25 isn't.

1 MS. BENSON: No, I'm not.

2 Q. So you met with the staff, interviewed them, gave
3 them a letter. And did you then resume your vacation?

4 A. After I handed them the letters and talked to
5 Rene, I probably left the agency probably 45 minutes to an
6 hour after that, the best I can recall, yes.

7 Q. And when did you return back to the Booker T.
8 Washington Center?

9 A. The morning of August 12th.

10 Q. Now, when you arrived on -- you've previously
11 testified that there was a meeting of the board on August
12 the 12th.

13 A. Yes.

14 Q. Had you arranged for that board meeting to take
15 place?

16 A. No, I received a phone call from Mr. Coleman
17 saying that the board was going to have a meeting on Monday
18 and I needed to be there.

19 Q. When you say Monday, would that be August 12th?

20 A. August 12th.

21 Q. And when did you receive that phone call from
22 Mr. Coleman?

23 A. I believe I received that call on Saturday. I
24 don't know if it was in the morning or the evening, but, I
25 believe, it was on Saturday which would have been August

1 10th.

2 Q. Did Mr. Coleman tell you the purposes for that
3 meeting?

4 A. Yes, he said that the board had met on Friday and
5 they wanted me to come in and go back over what occurred
6 with them and explain the situation.

7 Q. Were you aware that the board had met -- prior to
8 this conversation with Mr. Coleman, were you aware that the
9 board had met on Friday?

10 A. No.

11 Q. Are you -- when Mr. Coleman told you that the
12 board had met on Friday, did he tell you who called that
13 board meeting?

14 A. No, he didn't tell me who called the board
15 meeting.

16 Q. So when you went in, there was a board meeting on
17 August the 12th. So would it be -- you've previously
18 testified that your last day was August the 7th. Isn't it
19 correct that you reported to work on August the 12th?

20 A. It's correct because my vacation was over so I
21 would have went to work anyway, even if he hadn't told me to
22 go to work, to be there. So I it would have been August
23 12th.

24 Q. Do you recall who was present at the meeting on
25 August the 12th?

1 A. Sean Coleman, Bill Jeffress, Cathy Lyons.

2 Q. Ms. Lyons, is she white or black?

3 A. She's African American, female. I believe Charles
4 Faulkerson was there.

5 MR. MARTINUCCI: If it would help, why don't you
6 look at that.

7 A. I believe Charles Faulkerson was there; he's male,
8 African American. Claudette McAdory, African American,
9 female. I can't remember.

10 Q. Was Mr. Joe Fries there?

11 A. I believe Mr. Joe Fries was there, he's male,
12 white.

13 Q. Any other people that you can recall that were
14 there?

15 A. I think Tom Antolik might have been there also,
16 he's male and white. That's all of the people that I can
17 remember.

18 Q. Do you know, if at that meeting, the meeting was
19 recorded?

20 A. I tried recording it, they wouldn't let me.

21 Q. You said you tried having the meeting recorded.

22 A. I tried recording it myself, but they wouldn't let
23 me. I don't know if they record it or not because I took my
24 tape off of the tape table.

25 Q. So you had a tape and they would not allow you to

1 record the meeting.

2 A. Uh-huh, no.

3 Q. Do you recall -- let me ask you this question

4 here: Are board member meetings normally recorded?

5 A. For the most part, yes.

6 Q. Under your leadership they were recorded?

7 A. Yes.

8 Q. Would an incident such as what allegedly occurred
9 on August the 6th happens, is the Center required, or the
10 staff required to prepare what are called incident reports?

11 A. Yes.

12 Q. Was one prepared in this situation?

13 A. Yes.

14 Q. Who was it prepared by?

15 A. Anita Smith.

16 Q. And what was her title in August of 2002?

17 A. I believe her title was case manager.

18 Q. And what were her responsibilities?

19 A. Anita did a lot of things at the agency, from
20 recordkeeping, to filling in the food pantry, to filling in
21 on the lunch program. But her main responsibility, I guess,
22 would be record statistical information and that type of
23 stuff. And she was assistant to the housing manager.

24 Q. And why did Ms. Smith prepare the incident report?

25 A. Probably because she was the person at the agency

1 at the time when the situation happened.

2 Q. Now --

3 A. And I think the incident report is dated.

4 Q. Well, can you recall if that incident report was
5 part of the EEOC file?

6 A. Yes, I think it was.

7 Q. Does that incident report indicate who was in
8 charge on the day of the incident?

9 MR. MARTINUCCI: Objection. If the incident
10 report is part of the record, it's going to speak
11 for itself.

12 MS. BENSON: All right. Objection noted, but, if
13 you know, answer it.

14 A. Yes.

15 Q. And who did it indicate was in charge of the
16 agency on that day?

17 A. Brian Bessetti.

18 Q. You previously testified that on August the 12th,
19 in the meeting with the board, you reported on Mr. Coleman's
20 use of the "N" word; is that correct?

21 A. Yes.

22 Q. And did you inform the board of all three
23 incidents of Mr. Coleman's use of that word?

24 A. Through my explanation of -- they wanted an
25 explanation from the start of --

1 Q. When you say "explanation", are you saying they
2 wanted a history?

3 A. Yes, they wanted a history of what had occurred
4 from the incident back. And I gave them the total history
5 and it included from the time that Sean had -- Mr. Coleman
6 had telephoned me up until that current day, what my
7 knowledge was of what was going on and what had occurred.

8 Q. Is it your testimony that those three individuals
9 were terminated at Mr. Coleman's direction?

10 A. Yes.

11 Q. And that in giving that direction he used the "N"
12 word to refer to these three individuals.

13 A. Yes.

14 Q. Now, you were previously asked whether or not you
15 strongly disagreed, and I hope I'm quoting correctly here.

16 MR. MARTINUCCI: I doubt it.

17 Q. If you strongly disagreed with Mr. Coleman, why
18 you didn't take the recommendation of the firings of those
19 three individuals to board.

20 MR. MARTINUCCI: That's a good paraphrase.

21 MS. BENSON: Okay.

22 A. Why I didn't take the recommendation of the firing
23 to the board?

24 MR. MARTINUCCI: Right.

25 Q. If you strongly disagreed with Mr. Coleman.

1 A. I didn't think I had a choice. Mr. Coleman told
2 me to fire them, he was acting as the president of the
3 board, I did what he told me to do. I answer to the board
4 and he's a person that was there telling me what to do.

5 Q. In your capacity as the executive director, was it
6 your experience that the board expected you to carry out the
7 directions of the board president?

8 A. It's my belief that they wanted me to carry out
9 the direction of the board president. If he told me to do
10 something and I didn't do it then I would be the person on
11 the hot seat.

12 Q. To your knowledge, is Mr. Bessetti still at the
13 Booker T. Washington Center?

14 A. To the best of my knowledge, yes.

15 Q. And what do you base that on?

16 MR. MARTINUCCI: We'll stipulate that he is.

17 MS. BENSON: All right. Thank you.

18 Q. Now, you previously testified that Mr. Bisetti
19 would have had to go to the board for authorization to
20 discipline an employee; is that correct?

21 A. I believe it's correct, yes.

22 Q. You've previously testified that you did spot
23 checks on field trips to make sure that agency policies and
24 procedures were being carried out; is that correct?

25 A. That's correct. I would go down and check the

1 sign-in sheets in one area. And then if they were going out
2 of the building, I would go outside and just observe to make
3 sure they were checking the kids off when they got on the
4 vehicle or making some type of notation.

5 Q. Now, with regard to the two newspaper articles
6 that you were questioned on earlier, were you contacted by
7 the reporter, Kevin Flowers for this September 5th, '02
8 article?

9 A. No.

10 Q. Did you contact Mr. Flowers regarding that
11 article?

12 A. No.

13 Q. You've previously testified that Mr. Flowers
14 called you several times after it became known that you were
15 no longer at the Center.

16 A. Yes.

17 Q. How did Mr. Flowers know how to reach you?

18 A. I don't know, my telephone number is a private
19 number. So he would have had to obtain it from somewhere.
20 I didn't give him the telephone number.

21 Q. Did you authorize that your number be given out?

22 A. Employee information can't be given out to anyone
23 and I wouldn't authorize that.

24 Q. So you did not authorize that anyone at the Booker
25 T. Washington Center could give your number to Kevin

1 Flowers.

2 A. No.

3 Q. Now, you said that Mr. Flowers began calling you.

4 Can you tell us, roughly, when he began calling you. Was it
5 after the first article of September the 5th?

6 A. September 5th.

7 Q. Do you need to see articles?

8 A. No. Most of the telephone calls I received from
9 Mr. Flowers were after the article. I did receive, I think,
10 two phone calls prior to that article. But most of the
11 phone calls were after the article of September 5th.

12 Q. When he called you the two times prior to the
13 article of September the 5th, did you speak with Mr. Flowers
14 and discuss the matter in detail?

15 A. No, I told him I didn't have nothing to say.

16 Q. And that was in both of those phone calls.

17 A. Uh-huh.

18 Q. Now, September the 12th, can you tell us how that
19 article may have come about?

20 A. I met with Mr. Flowers at the Erie Times-News and
21 he interviewed me -- well, I gave him an interview, if you
22 want to call it that. I went down there to -- my whole
23 reason for going down there was that, you know, all of this
24 here conversation and --

25 Q. What do you mean all this here conversation?

1 A. People talking about the incident and talking
2 about me and what had occurred. And I wanted to try to
3 clarify things, so that's when I went to the Erie Times, I
4 think it was like September 9th, maybe it was on a Thursday
5 or Friday. I think it was after Bill and I had met.

6 Q. When you say Bill, are you referring to Mr. --

7 A. Mr. Jeffress.

8 Q. So you went there to try to clear your reputation.

9 A. Yes, because in the article in the paper it left a
10 lot of things in question, because they linked it to -- can
11 I see this.

12 MR. MARTINUCCI: Sure that's the one from the
13 13th.

14 A. They linked it to all of this stuff that occurred
15 with Dorothy Lockett.

16 Q. The previous director.

17 A. The previous director that had been fired and had
18 some jail time and stuff. And I didn't want people to think
19 that, you know, I wasn't there because I had done something
20 inappropriate or, you know --

21 Q. Illegal.

22 A. Illegal. I just felt obligated to go and do that
23 because it was the right thing to do.

24 Q. So it is your testimony that you didn't provide --
25 with regard to the September 5, '02 article, you provided no

1 information to the reporter, Kevin Flowers.

2 A. No, I didn't.

3 Q. Now, going back to the board meeting of August the
4 12th, were you asked to resign or were you told that you
5 must either resign or you would be terminated?

6 A. At that meeting they wanted me to resign or be
7 fired.

8 Q. And your response was?

9 A. Well at that meeting it was kind of hot because
10 Mr. Coleman was interrogating me, I felt interrogating me,
11 so we passed some words back and forth. After he said they
12 wanted me to resign or be fired. And I said to him,
13 whatever, and I walked out of the meeting and went into my
14 office.

15 Q. Why did you -- were you asked to leave the
16 meeting?

17 A. At that time, I wasn't asked to leave, but prior
18 to that I had been out of the meeting for about half an hour
19 or 45 minutes and they had a discussion going on and I was
20 called back. And then when I was called back Mr. Coleman
21 and I exchanged some words that led me to get up and leave
22 out of the meeting.

23 Q. So this meeting lasted -- started at what time?

24 A. I believe it was a noon meeting.

25 Q. And to your knowledge, how long did it last?

1 A. It was a couple of hours.

2 Q. Were you in there the entire time?

3 A. No.

4 Q. So it's your -- as I understand it, you were in
5 the meeting twice.

6 A. Yes.

7 Q. So you go into this meeting, was there an agenda
8 for this meeting?

9 A. I didn't receive an agenda at the meeting, no.

10 Q. At what point during this meeting did you hear for
11 the first time that you must either resign or be fired?

12 A. At what point did they say that to me?

13 Q. You said you were in the meeting twice. Did they
14 say it at the meeting the first time or the second time?

15 A. The second time.

16 Q. So the second time they told you that.

17 A. I believe it was the second time.

18 Q. All right. So when you left the meeting the first
19 time, why did you leave?

20 A. I left because Brian came in and they talked to
21 him.

22 Q. Did they ask you to leave while -- let me correct
23 that. Were you asked to leave when Brian came in?

24 A. After Brian came in, he was there for a couple of
25 minutes and then I left out and he was still in there.

1 Q. Were you asked to leave?

2 A. Yes.

3 Q. Were you present when Brian was invited into the
4 meeting?

5 A. Yes.

6 Q. Why was he invited into the meeting?

7 A. They wanted him to come into the meeting, I guess,
8 to -- I'm just guessing that they wanted him to explain what
9 had occurred.

10 Q. To tell them what had occurred.

11 A. To tell them what had occurred on August 6th, 2002
12 with the field trip.

13 Q. But you were not permitted to stay in the meeting
14 to hear that?

15 A. No, they didn't ask him -- I don't think they
16 asked him any questions while I was in there.

17 Q. Now, were you then called back into the meeting?

18 A. Yes, I went back into the meeting and, I believe,
19 I asked them --

20 Q. By the way, excuse me. Who was conducting the
21 meeting on this day?

22 A. Sean Coleman was conducting the meeting on the
23 day.

24 Q. Okay.

25 A. I went back into the meeting and asked them a

1 couple of questions and Sean and I got into a verbal
2 exchange and that's when I left. Shortly after that, I left
3 out of the meeting.

4 Q. At that time, did you resign?

5 A. No, I hadn't submitted any resignation or
6 anything.

7 Q. Now, you said it was on that day that you gave
8 them your keys.

9 A. I gave my keys to Bill Jeffress.

10 Q. Why did you give him the keys?

11 A. They asked me for the keys, so I gave them to him.

12 Q. So that was at the August the 12th, '02. You've
13 testified that you sent a letter to the board on August the
14 16th, '02. Do you know if that letter is part of the EEOC
15 file?

16 A. I believe it is.

17 Q. The letter will speak for itself, but just tell
18 us, in summary, what did you say to them?

19 A. I told them that I hadn't resigned and I didn't
20 appreciate that they had appointed someone as interim
21 director. And that's not how things are handled in my
22 absence. And I addressed it to Mr. Hamilton with copies to
23 all of the board members.

24 Q. Now, from September the -- from August the 12th,
25 '02 until you received a letter that was dated, I think,

1 September the 24th, '02, but you said you received it around
2 the 27th of September, did the board ever have any formal
3 contact with you?

4 A. Formal contact with me sitting in front of them?

5 Q. Yes.

6 A. The total board?

7 Q. Yes.

8 A. No.

9 Q. Now, from August the 12th to September the 27th,
10 '02, did you have any conversation with any board members?

11 A. Yes.

12 Q. And name those board members.

13 A. Sean Coleman, Rege O'Neil, Bill Jeffress, Paul
14 Gambill.

15 Q. How about Mr. Hamilton?

16 A. Yes, Mr. Hamilton, I met with him.

17 Q. Anyone else?

18 A. I think I saw Joe Fries somewhere and we spoke
19 during that time period, in between that time period.

20 Q. What about Ms. Lyons?

21 A. Ms. Lyons contacted me on August 13th by phone.

22 Q. At any time did you tell any of those individuals
23 that you had resigned from the Booker T. Washington Center?

24 A. No.

25 Q. What was Mr. Hamilton's response when he got your

1 letter?

2 A. Well, I didn't talk to him directly after he
3 received it and called me, because we weren't there. He
4 left a message on my phone wanting to know what was going on
5 and we need to get together to discuss this. It was like on
6 a Saturday, or something, he called me. So I think I met
7 with him and Bill Jeffress after that. We had a meeting
8 after that up at the Zoo parking lot.

9 Q. The Erie Zoo parking lot?

10 A. The Erie Zoo parking lot and we discussed what was
11 going on at the agency. And Mr. Hamilton asked me questions
12 related to that stuff. And he said to me, we're going to
13 get to the bottom of this here, we'll take care of things,
14 you know. He sort of tried to relieve -- give me some
15 relief about the situation. And I left there awaiting a
16 call back from him that I never got.

17 Q. Was it your -- from that conversation, what was
18 your understanding that Mr. Hamilton would be doing?

19 A. He was going to get me back into the agency.

20 Q. As the executive director.

21 A. Yes.

22 Q. And did Mr. Hamilton, as a result of that
23 conversation, understand that you had not resigned?

24 A. Yes, I made it quite clear to him, yes.

25 Q. You've previously testified that Mr. Coleman came

1 to your home after the August 12th, '02 meeting. Why did
2 Mr. Coleman come to your home?

3 A. On which occasion?

4 Q. Well, you said he came in after the board meeting
5 of August the 12th of '02.

6 A. He came to my house a couple of times trying to
7 offer me resignation packages, I guess you could say.

8 Q. Was he asking you to resign?

9 A. Yes.

10 Q. So he asked you to resign?

11 A. He said, well, what can we do to get you to
12 resign, we don't want to just put you out there and not give
13 you anything. And that they don't normally do that, but he
14 would try to make sure that I was taken care of.

15 Q. So it is your testimony that Mr. Coleman
16 understood that you had not resigned your position on August
17 the 12th.

18 MR. MARTINUCCI: Objection, he doesn't know what
19 Mr. Coleman understood or didn't understand.

20 MS. BENSON: Answer it anyway.

21 A. From our conversation, yes.

22 Q. As of this day, do you still view yourself as the
23 director of the Booker T. Washington Center?

24 A. Yes, in some long about way. I was never given,
25 like -- I don't know, yes, I do.

1 Q. You previously testified that there was a meeting
2 between yourself, Mr. Coleman, Mr. Jeffress, and myself. Do
3 you recall when that meeting occurred?

4 A. I believe that meeting took place September 16th
5 at the Booker T. Washington Center at 1:30.

6 Q. And who had asked for that meeting?

7 A. Mr. Coleman.

8 Q. And why did Mr. Coleman want that meeting?

9 A. He wanted to present to me an agreement to sign
10 and resign and obtain a severance package.

11 Q. And did you sign it?

12 A. No.

13 Q. And in that meeting did you make a request of
14 Mr. Coleman and Mr. Jeffress?

15 A. Yes.

16 Q. What was the request?

17 A. Through my attorney, I requested an additional
18 meeting.

19 Q. With whom?

20 A. The board of directors, so that we could discuss
21 my coming back to the agency.

22 Q. And what was Mr. Jeffress' response to that
23 request?

24 A. They were going to try to work it out.

25 Q. Did Mr. Jeffress, during that meeting, indicate to

1 you that he thought the board had acted improperly on August
2 the 12th?

3 A. Yes.

4 Q. Did Mr. Jeffress, during that meeting, indicate to
5 you that he thought you should return to the agency?

6 A. I think from the onset Mr. Jeffress' attitude had
7 been that I should return to the agency and he was trying to
8 assist me in doing so.

9 Q. Until he was appointed director?

10 MR. MARTINUCCI: I'm sorry, are you testifying or
11 was that a question?

12 MS. BENSON: I'll withdraw that statement.

13 MR. MARTINUCCI: A little professionalism
14 occasionally would be nice.

15 Q. Was the meeting of the board ever granted?

16 A. No, it wasn't.

17 MS. BENSON: I have no further questions at this
18 time.

19

20 REDIRECT EXAMINATION

21 BY MR. MARTINUCCI:

22

23 Q. With regard to the taped message that you got from
24 Randy Davis; did you save that?

25 A. No.

1 Q. Did you make notes of it?

2 A. No.

3 Q. You've indicated that you do have notes from your
4 conversations with Mr. Coleman.

5 A. Yes.

6 Q. Do you have those with you here today?

7 A. No, I don't. I haven't been able to locate the
8 legal pad that my notes from August 6th, my initial
9 conversation with him up until --

10 Q. Whenever you lost the legal pad.

11 A. Yes. I have to go in my garage and look.

12 MR. MARTINUCCI: I'll make a request now, that if
13 you do ever come across, that your counsel provide
14 me with a copy of those notes.

15 A. Okay.

16 Q. You were asked what your expectations of continued
17 employment were with Booker T. Washington Center. And you
18 basically said as long as you did a good job you were going
19 to continue with employment, right?

20 A. Yes.

21 Q. Now, your counsel asked you that question in the
22 context of the offer letter that you had received, or your
23 letter of engagement.

24 A. This one's mine.

25 Q. That's yours?

1 A. That's your copy.

2 Q. That is my copy. But the first paragraph with an
3 underlined heading, can you tell me what that says.

4 A. The first paragraph?

5 Q. With an underlined heading.

6 A. It says, "Employment at Will. You will serve at
7 the will and discretion of the board and the board retains
8 the right to terminate your employment with or without
9 cause. However, you may expect that continued positive
10 performance will forge you a long-term employment
11 opportunity under ordinary circumstances."

12 Q. There's nothing in there that says that you are
13 always going to have a job with the Booker T. Washington
14 Center, even if you do a good job.

15 A. Afford you long-term employment.

16 Q. Opportunities, right?

17 A. Uh-huh.

18 Q. Opportunity is not a guarantee, is it?

19 A. Opportunity means that if you do as asked you will
20 have advantage of that opportunity.

21 Q. It very clearly states that you're an at-will
22 employee, correct?

23 A. It states within there, that employment at will.

24 Q. Okay. You said Brian Bessetti was not called in
25 for an interview on August 7th by Sean Coleman. Did you

1 ever interview Brian Bessetti on your own?

2 A. I didn't have an opportunity to interview Brian
3 Bisetti. It was the first thing on my list to do when I got
4 back from vacation.

5 Q. Did you ask to interview Brian on the 12th?

6 A. No. I was being interviewed myself, how can I ask
7 to interview someone else.

8 Q. Okay. Your attorney asked you a very direct
9 question, if Mr. Coleman had used the "N" word to describe
10 the three individuals that were subsequently terminated.
11 Now, you had previously testified that it was your belief
12 that he had done so; you don't know what was he referring
13 to, do you?

14 A. At the date that we interviewed them he used it.

15 Q. I'm not saying -- I'm not arguing that point with
16 you at this juncture, okay?

17 A. I'm trying to get clarification --

18 Q. I'm asking you --

19 A. -- on that aspect.

20 Q. I'm asking you, did he say, and by the word
21 "nigger", I mean X, Y and Z?

22 A. No, it was implied.

23 Q. That was your understanding of the situation.

24 A. That it was implied that it meant Derrick, Rene
25 and Lester.

1 Q. Do you believe or have any evidence that your
2 phone number was given out by the Booker T. Washington
3 Center?

4 A. I don't have any evidence, but it's my belief that
5 somebody gave it out.

6 Q. And nobody else in the City of Erie has your phone
7 number.

8 A. Only the people that I gave it to or my wife gave
9 it to.

10 Q. Okay. You wanted to clear your name with regard
11 to the September 5th article. That's why you had the
12 conversation with Kevin Flowers.

13 A. Yes.

14 Q. Who tied your name to the past executive director,
15 was that Kevin or was that somebody from Booker T.
16 Washington Center?

17 MS. BENSON: Well, I think the article speaks for
18 itself.

19 A. It was within the article that was September 5th.

20 Q. Is it your position that anybody at Booker T.
21 Washington Center tied anything that you had done or not
22 done to the past administration at the Booker T. Washington
23 Center?

24 A. Again, I felt it was implied within there,
25 because --

1 Q. Implied within the article or implied by the
2 Booker T. Washington Center? There's a difference.

3 MS. BENSON: Let him answer the question. The
4 article speaks for itself. You want to read the
5 article again?

6 A. It was, I think, on two sides. Because anytime
7 that you don't clarify what is going on with someone in a
8 CEO or head possession, it leaves question within, not on
9 funders, but within the community, that the reason they're
10 not clarifying is because this person did something
11 drastically wrong. Okay. And in that aspect, I think it's
12 implied by both the agency and within the article.

13 Q. But didn't you just testify a little bit ago that
14 personnel records are confidential?

15 A. Yes, personnel records are supposed to be kept
16 confidential. Only access to those personnel records is
17 supposed to be from within, and with that person coming to
18 the agency and requesting in document form to see their
19 records. But those records can be accessed within the
20 agency.

21 Q. Okay. Who told you that you had to resign or be
22 fired, specifically?

23 A. Sean Coleman.

24 Q. And when you exchanged words with Sean Coleman
25 what words did you exchange?

1 A. I don't recall the full content, but it was in
2 relation to what he was saying to me that I didn't agree
3 with.

4 Q. Okay.

5 A. I don't know the content.

6 Q. Did you yell at him?

7 A. He yelled at me and I yelled at him.

8 Q. Okay.

9 A. Or we got very vocal with one another.

10 Q. And what did Mr. Jeffress say the board had done
11 improperly when you and your attorney met with him and
12 Mr. Coleman?

13 A. Well, he just didn't think that the situation was
14 handled appropriately. I mean, that's been his -- that was
15 his thing from the beginning when we started having our
16 conversations over the telephone and our meetings.

17 Q. You think that Bill Jeffress ultimately supported
18 your termination because he wanted your job?

19 A. I can't say that I'm 100 percent positive in that
20 aspect, but he is the executive director.

21 Q. Your view on this is basically if X then Y, right?

22 MS. BENSON: Well, I'm not --

23 A. I think that's a little more simplistic than how I
24 would view it.

25 Q. Well, you were fired, it must have been because of

1 your race.

2 MS. BENSON: Well, wait a minute, excuse me.

3 That's --

4 A. That's not the question you were asking me though.

5 Q. I'm going a little bit broader here, I apologize
6 for that, I should have given you some warning.

7 MS. BENSON: Well, now -- but --

8 MR. MARTINUCCI: Now let him testify, unless
9 you're going to object to the question.

10 MS. BENSON: I'm going to object to the question
11 because --

12 MR. MARTINUCCI: Then tell me what the objection
13 is.

14 MS. BENSON: Wait a minute. Because your question
15 said, if X then Y, and he began to respond a
16 certain way and you broadened it. So I want you
17 to be specific, so wait until he answers the
18 question.

19 Q. Let's start and work backwards. With regard to
20 Bill Jeffress, okay, he is the executive director,
21 therefore, he must have wanted your job.

22 A. I didn't say I was 100 percent positive in that.

23 Q. Brian Bessetti was not fired, therefore, it must
24 have been because he was white.

25 A. Just because of how the situation was handled in

1 relation to myself and the others through Mr. Coleman.

2 Q. You were fired, therefore, it must be because you
3 were African American.

4 A. Just because of how the situation was handled
5 between Sean Coleman, myself, and the others that were
6 fired.

7 Q. There's nothing else that you have that will
8 demonstrate that to be the case?

9 A. I wouldn't say that.

10 Q. What else do you have?

11 A. Brian Bessetti is a Caucasian male.

12 Q. Right.

13 A. He was left in charge of the agency by myself. I
14 was on vacation, I get dragged into a board meeting and
15 subsequently fired. In conversation with Mr. Bessetti,
16 nothing happened to him, he's still the finance director at
17 the Booker T. Washington Center at least for another month
18 or so. So that's what leads me to believe and understand
19 that I was fired and talked about, as by Mr. Coleman,
20 stating, you know, I fired all of those niggers.

21 Q. Now, wait a minute. You're saying Mr. Coleman
22 said that?

23 A. Yes.

24 Q. When and to whom?

25 A. In the affidavit that's in the EEOC file. There's

1 an affidavit that states from two employees that were
2 present at the meeting on August 13th that he stated that.

3 Q. So you're saying that you're included in that.

4 A. Yes. From their affidavits he said that he fired
5 all of those niggers.

6 Q. Okay.

7 A. And he admitted that he used the word.

8 Q. And by niggers, do you mean African Americans?

9 A. We were the only ones that were terminated.

10 Q. And you think he did it because you were African
11 American.

12 A. The basis of our suit is that I was racially
13 discriminated against.

14 Q. I understand that. I'm asking what the underlying
15 facts are that support that claim.

16 MS. BENSON: I think he's answered the question.

17 A. I just told you. Because --

18 MS. BENSON: Wait a minute, James, I'm making an
19 objection. You repeatedly answered the question,
20 and his answer is that he was fired because of his
21 race and so were three other individuals.

22 A. Right.

23 Q. My question is, what's the basis for that
24 contention?

25 MS. BENSON: And he's answered that.

1 A. Because we were all fired.

2 Q. Okay. There was a Notice of Deposition going back
3 to July of 2005. And most recent one was sent out last week
4 that directed you to bring certain documents to the
5 deposition. Did you bring any documents with you in
6 response to the Notice of Deposition?

7 A. The only documents that I have in my possession
8 are the same ones you have.

9 Q. There's nothing else that you're aware of.

10 A. Only my notes that I can't find.

11 Q. With regard to any witnesses, aside from the
12 people whose affidavits appear in the EEOC materials, and
13 the people who are being deposed in this case so far, are
14 you aware of anyone who has information that would be
15 relevant to the case?

16 A. Who do you have on your witness list?

17 Q. I'm sorry. We've deposed Bill Jeffress; we've
18 deposed Sean Coleman; we've deposed you.

19 A. Right.

20 Q. Who else is out there that you're aware or that
21 your counsel is aware of?

22 A. That are going to get deposed?

23 Q. No, that are going to be witnesses in the case or
24 have information, or they could be witnesses in the case.

25 A. No one that I'm aware of at this time.

1 MS. BENSON: Let me -- because I don't want to
2 mislead the other side. I think we, early on,
3 gave a statement of potential witnesses, but just
4 let me repeat. There's Anita Smith, who prepared
5 the incident report. And according to that
6 report, she was the first personnel who had word
7 that the little girl may have been missing.

8 MR. MARTINUCCI: You don't have to go through each
9 of the individuals, just in terms of what they're
10 going to testify to. If I have a question, I'll
11 ask.

12 MS. BENSON: There's Anita Smith. I would expect
13 that we would have Mr. Davis. I would expect that
14 -- the secretary.

15 A. The people that are on our list.

16 MR. MARTINUCCI: Okay.

17 MS. BENSON: Right. I would expect that there
18 might be a possibility of having Brian, and that
19 there may be some others. But we would make sure
20 that, consistent with the rules, that you are
21 aware of any changes.

22 MR. MARTINUCCI: Okay. And one final question for
23 you here.

24 Q. The board meeting on the 12th of August was at
25 noon.

1 A. I think it was either at noon or 1:00, it was in
2 the middle of the day.

3 Q. Why didn't you come in before that and interview
4 Brian Bessetti?

5 MS. BENSON: Did you have any meetings outside of
6 the office?

7 MR. MARTINUCCI: I'm sorry, are you going to
8 answer it for him?

9 MS. BENSON: No. No, I'm not.

10 A. I didn't come in and interview Brian that day
11 because I was trying to figure out what was going on.

12 Q. And part of figuring out what was going on was not
13 talking to Brian Bessetti, the person that was first on your
14 list to interview when you got back to the office.

15 A. See, this is the thing. I believe the situation
16 that Sean Coleman asked and directed me to handle was
17 handled, okay. And because he called me and told me that
18 they wanted to meet with me on August 12th, which was Monday
19 when I got back, that's what my main focus was. Not to, you
20 know, I had one meeting that day also prior to the board
21 meeting, outside of the building.

22 Q. What meeting was that?

23 A. I had a meeting with Al Messina, who was my
24 mentor.

25 Q. And actually, I'm sorry, I do have one more

1 question for you. You talked about the number of meetings
2 that you had and conversations that you had with individual
3 board members from August 12th until September 24th. During
4 any of those conversations, did you tell any of those board
5 members that you thought that your termination or that your
6 situation was racially motivated?

7 A. I may have discussed it with one or two people.

8 Q. Who?

9 A. That I felt I was wronged.

10 Q. I'm not asking if you felt you were wronged. I'm
11 asking if you told these people that you were being targeted
12 because you were African American?

13 A. Probably not specifically.

14 Q. Okay.

15 MR. MARTINUCCI: I have nothing else.

16 MS. BENSON: I do. Let me -- just a few
17 questions.

18

19 RECROSS-EXAMINATION

20 BY MS. BENSON:

21

22 Q. You testified that Brian Bessetti is still at the
23 Booker T. Washington Center. And I believe your comment was
24 at least for another month, why did you say that?

25 A. Because, I believe, he's going to be seeking other

1 employment.

2 Q. And do you have a reason for believing that?

3 A. Yes.

4 Q. Let me ask you whether or not that's as a result
5 of a conversation with Mr. Bessetti.

6 A. No, it's not from a direct conversation with
7 Mr. Bessetti. It's not from a direct conversation with
8 Mr. Bessetti.

9 Q. You made reference to a staff meeting on August
10 the 13th, '02, that was a day after the board meeting of
11 August the 12th. And I believe your testimony was that it
12 was during that meeting that Mr. Coleman acknowledged
13 directing you to fire those niggers.

14 MR. MARTINUCCI: I'm going to object to the
15 question. His testimony was that there are
16 affidavits in the file that reflect that he wasn't
17 there, he doesn't know.

18 Q. When you met with individual board members, did
19 you tell them of Mr. Coleman using the word "nigger" or
20 directing you to fire those niggers?

21 A. I think I used both who, I don't know who with,
22 but through conversations with the various board members. I
23 can't identify, you know, like, I said this to Cathy or I
24 said this to Bill or I said this to Tom or I said this to
25 Paul or anything like that.

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MS. BENSON: I have no further questions.

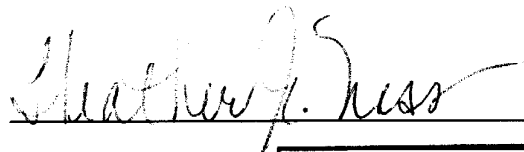
MR. MARTINUCCI: I assume you're going to read.

MS. BENSON: Yes.

(Deposition concluded at 5:00 p.m.)

CERTIFICATION

I, Heather E. Nass, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.



Notary Public

NOTARIAL SEAL
HEATHER E. NASS, NOTARY PUBLIC
WATERFORD TWP. ERIE COUNTY, PA
MY COMMISSION EXPIRES SEPT. 18, 2008

Dated: February 10, 2006